

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

75-1014

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

ONLY COPY AVAILABLE

THE UNITED STATES OF AMERICA

vs.

CAROL PRYCE, a/k/a JUNIOR PRYCE,

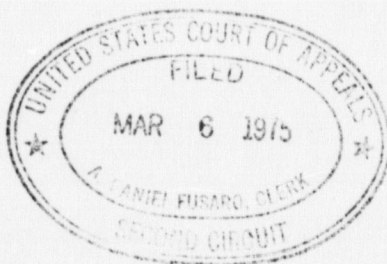
Appellant

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APPELLANT'S APPENDIX

CR. 74-16

DKT. NO. 75-1016



CHARLES F. CRIMI
Attorney for Appellant,
Pryce
Office and P.O. Address
700 Wilder Building
Rochester, New York 14614
(716) 325-2110

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PAGINATION AS IN ORIGINAL COPY

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CRIMINAL DOCKET
UNITED STATES DISTRICT COURT

ONLY COPY AVAILABLE
CR-74-16

D. C. Form No. 100 Rev.

TITLE OF CASE	ATTORNEYS
THE UNITED STATES	For U.S.:
vs.	Kenneth Cohen, Esq.
CAROL PRYCE, aka JUNIOR PRYCE	Assistant U.S. Attorney Rm. 502, U.S. Courthouse Buffalo, New York 14202 (716) 842-3479
Unlawfully and knowingly did attempt to bring into the United States by automobile an alien not lawfully entitled to enter or reside within the United States, (Ct. 1), in violation of Section 1324(a)(1), Title 8, U.S.C.; Wilfully and knowingly did encourage and induce the entry into the United States of an alien not lawfully entitled to enter or reside within the United States (Ct. 2), in violation of Section 1324(a)(4), U.S.C.; Conspiracy to commit offenses against the U.S., by attempting to bring into the U.S., by automobile, an alien not lawfully entitled to enter or reside within the U.S. (Ct. 3), in vio. of Sect. 371, Title 18, U.S.C.	For Defendant: Charles Crimi, Esq. (assigned) Suite 700, One East Main St., Rochester, N.Y. 14614

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
Offense: 10/1/1973		3 Cts.			
J.S. 2 mailed FEB 3 1974	Clerk				
J.S. 3 mailed FEB 5 1975	Marshal				
Violation	Docket fee				
Title 8, 18					
Sec. 1324(a)(1), and (4) 371					

DATE	PROCEEDINGS
1974	
Jan. 22	Filed Indictment
Jan. 22	J.S. 2 made
Jan. 31	For arraignment. Deft. present without counsel, enters a plea of not guilty. Court assigns Charles Crimi, Esq. as counsel for the deft. Bail is set at \$2,000 recog. bond. Adj. to March 7, 1974, for motions. Govt. is to respond to defts. motions by March 21, 1974.
Jan. 31	Filed \$2,000 recog. bond for deft.
Feb. 13	Filed Cy. 5 of CJA-20 - Order appointing Charles F. Crimi, Esq., as counsel--CURTIN, J.; Cy. to the Adm office; Orig. ret. to counsel
Mar. 7	Filed Deft's notice of motion for Brady material; bill of particulars; discovery and inspection, etc., ret. 3/11/1974
Mar. 11	Return date for motions. Deft. has filed motions. Adj. 3/25/74. for Govt's answer to deft's motions
Mar. 25	Return date for Govt's answer to defts. motions. Govt. will file response today. Adj. to May 6 for Deft's responses, and pre-trial meeting at 2:00 P.M.
Mar. 25	Filed Govt's answer to pre-trial motions --

DATE
1974

PROCEEDINGS ONLY COPY AVAILABLE

Mar. 29	Filed Govt's notice of motion for an order conditioning discovery of items requested by the deft. either consented to by the Govt., or granted by the Court upon Deft's permitting the Govt. to inspect, copy or photograph all scientific or medical reports, etc., which the deft. intends to produce at trial, etc., ret. 5/6/1974
May 6	Status Report; Case ready for trial.
May 6	Govt's response to deft's motions. Govt. has responded. Case is ready for trial.
May 13	Filed Govt's motion to move action for trial --
June 7	Filed four subpoenas - Keith Grizzle, Monica Pryce, served 5/30/1974; Manning McCutcheon, Stephen Madison, served 6/4/1974
June 4	The Court tentatively set this case for trial on 6/11/1974
June 12	Filed two Subpoenas (D.T.) - Chris Brown, Leroy Wheeler, served 6/6/1974
July 3	Filed Govt's affidavit to request the Court to order the arrest of Leroy Cephas as a material witness to the events charged in this indictment.
July 3	Govt. requested the Court to designate Leroy Cephas as a Material Witness and his arrest. The Court denied the motion and remanded Leroy Cephas to the custody of U. S. Immigration authorities. Atty. Sean Hill advised the Court he would waive payment as assigned counsel for this appearance.
Sept. 30	Filed order setting case for trial on calendar of Hon. Lloyd F. MacMahon
Oct. 25	Govt. moves case ready for trial, before Judge Curtin, at Buffalo, N.Y. Jury is duly empanelled; Trial is hereby adj. until 10/30/74
Oct. 29	Filed Five (5) subpoenas - Manning McCutcheon, Leroy Wheeler, Keith Grizzle, Monica Pryce, Stephen A. Madison, served 10/28/74, and one subpoena (D.T.) - Chris Brown, served 10/28/74
Oct. 29	Filed Govt's trial memorandum
Oct. 30	Trial continues from October 25 with the same appearances & Jury. During the testimony of the witness Monica Pryce, the jury is excused and further testimony is taken outside the presence of the Jury. Trial is hereby adj. until tomorrow morning at 10:00 A.M.
Oct. 31	Filed subpoena to testify - Francisco Voogt., served 10/31/1974
Oct. 31	Trial continues from yesterday with the same appearances and jury. Trial is hereby adj. until 11/6/74 at 10:00
Nov. 5	Filed subpoena Ticket - Gladys Channer - executed 10/29/74
Nov. 5	Filed Govt's memorandum of Law
Nov. 6	Trial continues from 10/31/1974 with the same appearances & Jury -- Motion by deft. for judgment of acquittal. Motion denied. Deft. renews his motion for acquittal made at the end of the Govt's case. Motion denied. Trial adj. until tomorrow -- Nov. 7, 1974.
Nov. 7	Trial continues from yesterday with the same appearances & Jury. The Jury returns with the following verdict: Guilty on Counts 1 and 3 of the Indictment. Not guilty on Count 2 of the Indictment. The Court sets bail in the amount of \$5,000.00. The Deft. is remanded to the custody of the Marshal. Sentence is deferred 11/18/74.
Nov. 11	Filed \$5,000 property bond - Carlos S. Price, 285 Summit Grove Park, Rochester, New York - surety.

CRIMINAL DOCKET

[illegible]

4a
INDICTMENT

Form No. USA-53-11
(Rev. 10-1-64)

In the District Court of the United States

For the Western District of New York

THE UNITED STATES OF AMERICA

-VS-

CAROL PRYCE a/k/a JUNIOR PRYCE

November 1973 Session

No. CM-74-13

Viol. T. 8, U.S.C.
§1324(a)(1) and (4)
T. 18, U.S.C.
§371

COUNT I

The Grand Jury Charges:

On or about October 1, 1973 at the Lewiston Bridge, Lewiston, New York in the Western District of New York the defendant, CAROL PRYCE a/k/a JUNIOR PRYCE unlawfully and knowingly did attempt by himself and through another to bring into the United States by automobile Keith Ludlow Fitzhugh Grizzle, an alien not lawfully entitled to enter or reside within the United States; all in violation of Title 8, United States Code, Section 1324(a)(1).

COUNT II

The Grand Jury Further Charges:

On or about October 1, 1973 in the Western District of New York the defendant, CAROL PRYCE a/k/a JUNIOR PRYCE, willfully and knowingly did encourage and induce the entry into the United States of Leroy Cephas, an alien not

lawfully entitled to enter or reside within the United States; all in violation of Title 8, United States Code, Section 1324(a)(4).

COUNT III

The Grand Jury Further Charges:

Beginning on or about September 14, 1973 and continuing through October 1, 1973 in the City of Rochester in the Western District of New York and elsewhere the defendant CAROL PRYCE a/k/a JUNIOR PRYCE and Keith Ludlow Fitzhugh Grizzle, Monica Pryce and Leroy Cephas named as co-conspirators but not as defendants, willfully, knowingly and unlawfully did combine, conspire and agree together to commit an offense against the United States, to wit, to violate Title 8, United States Code, Section 1324(a)(1), by attempting to bring into the United States by automobile Keith Ludlow Fitzhugh Grizzle, an alien not lawfully entitled to enter or reside within the United States; all in violation of Title 18, United States Code, Section 371.

OVERT ACTS

At the times hereinafter mentioned in the Western District of New York and elsewhere the defendant CAROL

PRYCE a/k/a JUNIOR PRYCE and others committed the following overt acts in furtherance of said conspiracy and to effect the objects thereof:

1) On or about September 14, 1973 Keith Ludlow Fitzhugh Grizzle entered Canada.

2) On or about September 25, 1973 CAROL PRYCE a/k/a JUNIOR PRYCE told Monica Pryce that he had someone who could help Keith Ludlow Fitzhugh Grizzle enter the United States.

3) On or about September 25, 1973 CAROL PRYCE a/k/a JUNIOR PRYCE told Monica Pryce that it would cost \$300 for that help.

4) On or about October 1, 1973 CAROL PRYCE a/k/a JUNIOR PRYCE borrowed an automobile from Leroy Wheeler.

5) On or about October 1, 1973 CAROL PRYCE a/k/a JUNIOR PRYCE and Leroy Cephas drove from Rochester, New York to Toronto, Ontario.

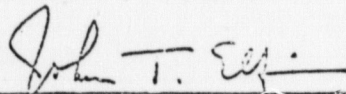
6) On or about October 1, 1973 CAROL PRYCE a/k/a JUNIOR PRYCE gave Keith Ludlow Fitzhugh Grizzle a driver's license in the name of Manning McCutchen, Jr.

7) On or about October 1, 1973 CAROL PRYCE a/k/a JUNIOR PRYCE gave Keith Ludlow Fitzhugh Grizzle a Xerox employee identification badge in the name of Manning McCutchen.

8) On or about October 1, 1973 CAROL PRYCE a/k/a JUNIOR PRYCE gave Keith Ludlow Fitzhugh Grizzle a Red Cross Blood Donor's Card in the name of Manning McCutchen.

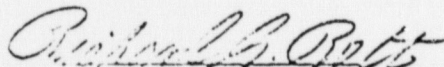
9) On or about October 1, 1973 Leroy Cephas and Keith Ludlow Fitzhugh Grizzle drove from Toronto, Ontario to the Lewiston Bridge, Lewiston, New York.

10) On or about October 1, 1973 Keith Ludlow Fitzhugh Grizzle claimed to be Manning McCutchen to officials of the United States Department of Justice Immigration and Naturalization Service.



JOHN T. ELFVIN
United States Attorney

A TRUE BILL:



Raymond A. Pratt
Foreman

NOTICE OF APPEAL

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

vs.

Cr.
File No. 74 18

CAROL PRYCE, a/k/a JUNIOR PRYCE

Notice is hereby given that Carol Pryce a/k/a Junior Pryce the defendant above named, hereby appeals to the United States Court of Appeals for the Second Circuit from the final judgment convicting him of violations of Section 1324 (a) (1) of Title 8 United States Code and Section 371 of Title 18 United States Code entered in this action on the 6th day of January 1975 and from each and every part thereof.

Dated: Buffalo, New York
January 6, 1975

Yours, etc.

Charles F. Crimi, Esq.
Attorney for Defendant, Carol
Pryce a/k/a Junior Pryce
Office and P.O. Address
700 Wilder Building
Rochester, New York 14614
Tel: (716) 325-2110

TO: CLERK
United States District Court
Western District of New York

JUDGMENT AND COMMITMENT ORDER

United States of America vs.

UNITED STATES DISTRICT COURT for

DEFENDANT

CAROL PRYCE a/k/a

WESTERN DISTRICT OF NEW YORK

JUNIOR PRYCE

DOCKET NO.

Cr-74-16

JUDGMENT AND PROBATION/COMMITMENT ORDERIn the presence of the attorney for the government
the defendant appeared in person on this dateMONTH DAY YEAR
January 6, 1975

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

Charles Crimi, Esq.

(Name of counsel)

PLEA

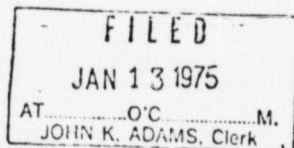
☐ GUILTY, and the court being satisfied that
there is a factual basis for the plea,☐ NOLO CONTENDERE,☐ NOT GUILTYFINDING &
JUDGMENTThere being a ~~XXXX~~ verdict of☐ NOT GUILTY. Defendant is discharged☒ GUILTY.

Defendant has been convicted as charged of the offense(s) of unlawfully and knowingly did attempt to bring into the United States by automobile an alien not lawfully entitled to enter or reside within the United States, -(Ct. 1) in violation of Section 1324(a)(1), Title 8, U.S.C.; Conspiracy to commit offenses against the United States, by attempting to bring into the United States, by automobile, an alien not lawfully entitled to enter or reside within the United States (Ct. 3), in violation of Section 371, Title 18, U.S.C.

SENTENCE
OR
PROBATION
ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year on Count One of the indictment, and One (1) Year on Count Three of the indictment, the sentences to run concurrently.

Defendant found Not Guilty on Count Two of the indictment.

SPECIAL
CONDITIONS
OF
PROBATIONADDITIONAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT
RECOMMEN-
DATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☒ U.S. District Judge☐ U.S. Magistrate

JOHN T. CURTIN, U.S. District Judge

Date

JAN 13, 1975

#8

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[R. 58]

K E I T H G R I Z Z L E (102 Clifford Avenue, Rochester, New York), a witness called by and in behalf of the Government, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION BY MR. COHEN:

x x x

[R. 66]

BY MR. COHEN:

Q. And who did you see when you arrived in Canada?

A. I saw my sister and my girlfriend, my sister's boyfriend and his sister.

Q. And who is your girlfriend?

A. Monica Pryce.

Q. And during, - when did you see Monica Pryce?

A. I saw her at the airport when I arrived in Canada.

Q. And from the time you saw her in the airport, how long did you see her in Canada as of September 14th?

A. That was until Sunday evening which would be about the 16th.

x x x

[R. 98]

CROSS EXAMINATION BY MR. CRIMI:

x x x

[R. 106]

Q. Were you, - incidentally, I think, your Honor, I am going to ask for those as part of the material under 3500 at the proper time. Now, Mr. Grizzle, - I am sorry, Mr. Grizzle, - no. You, when did you get to Canada?

A. On the 14th of September, 1973.

Q. And how did you get into Canada?

A. By airplane.

Q. And did you get into Canada as, - under some permit or something?

A. Yes, a visitor's permit.

Q. A visitor's permit?

A. Yes.

Q. And what was this visitor permit; how long was it good for?

A. Three weeks.

Q. Three weeks?

A. Yes.

- 1 Q. So that, - and what was the date again, September 14th?
- 2 A. That's right.
- 3 Q. So that on or about October 1st you had used up --
- 4 A. Two weeks.
- 5 Q. A couple of weeks, is that correct?
- 6 A. That's correct.
- 7 Q. And on or about October 1st you knew, did you not, that
- 8 it would be wrong for you to try to enter the United
- 9 States, isn't that correct?
- 10 A. No.
- 11 Q. You didn't know that?
- 12 A. No.
- 13 Q. All right. You wanted to get to the United States?
- 14 A. That's right.
- 15 Q. Well, why did you want to get to the United States?
- 16 A. For a few reasons. Mostly to better myself and provide
- 17 a better future for my daughter, myself, and mainly
- 18 the person of myself, my health. I am an asthmatic.
- 19 Q. Well, didn't Monica Pryce have something to do with
- 20 your desire to come to the United States?
- 21 A. That's right.
- 22 Q. And as a matter of fact, Monica Pryce is your girlfriend.
- 23 isn't that right?
- 24 A. That's right.
- 25 Q. And she is a little bit more than your girlfriend; she is

[R. 108]

1 really your common law wife, isn't that right?

2 A. That's right.

3 Q. And you knew Monica Pryce in Jamaica, did you not?

4 A. Yes, I did.

5 Q. And you had a child by Monica Pryce in Jamaica?

6 A. That's right.

7 Q. And that is the same child you worried about, isn't
8 that right?

9 A. That's right.

10 Q. And Monica Pryce was in the United States, isn't that
11 right?

12 A. Yes.

13 Q. And Monica Pryce wanted you to be next to her at her
14 side, isn't that correct?

15 A. That's right.

16 Q. She missed you, didn't she?

17 A. She would.

18 Q. She would?

19 A. That's right.

20 Q. And did you have any correspondence with Monica Pryce
21 prior to October 1, 1973?

22 A. Yes, I did.

23 Q. And she told you she missed you, isn't that right?

24 A. Yes, she did.

25 Q. And that she loved you?

[R. 109]

A. That's right.

Q. Now, who had the child?

A. Monica's mother.

Q. Where does Monica's mother live?

A. She lives in Jamaica.

Q. In Jamaica?

A. Yes.

Q. Okay. So that you really wanted to come to the United States for all of those reasons and in particular to be next to Monica Pryce?

A. That's right.

Q. You are still living with Monica Pryce, are you not?

A. Yes, I am.

x x x

[R. 123]

Q. Okay. Now, you are from Jamaica, is that correct?

A. Yes.

Q. And I don't know whether you testified to this or not, but you lived with Monica Pryce for five years in Jamaica?

A. That's correct.

Q. All right, and during the time that you lived with Monica Pryce, you were planning on coming to the United States, is that correct?

A. That's correct.

Q. And you were dreaming, I suppose, about coming to the United States?

[R. 124]

1 A. That's right.

2 Q. And this was because you had asthma?

3 A. Yes.

4 Q. And this was because the economic conditions were bad
5 in Jamaica?

6 A. Yes.

7 Q. And during the period, the five years, both you and
8 Monica were planning about the possibility of your
9 coming to the United States, is that correct?

10 A. That's correct.

11 Q. Now, subsequently, and sometime in early '73, Monica
12 came to the United States, is that correct?

13 A. That's correct.

14 Q. And after she came to the United States, you then went
15 to Canada, is that correct?

16 A. That's correct.

17 Q. And when you went to Canada, it was your plan not to
18 stay in Canada, but to get to the United States, is
19 that correct?

20 A. Yes, sir.

21 Q. And so that when you got to Canada and you said you
22 were planning for a vacation, that wasn't true, was it?

23 A. That's correct.

24 Q. Now, you wanted some help to get into the United States,
25 is that correct?

[R. 125]

A. That's correct.

Q. And Monica planned it with you, isn't that correct?

A. That's correct.

Q. And both you and Monica were planning to get you into the United States illegally, is that correct?

A. I don't think she looked at it as illegal. I would suppose she wanted somebody to sponsor me.

Q. And she wanted to find a friend to sponsor you, is that correct?

A. Not a friend. She don't have any friends in America other than the Pryce family.

Q. At any rate, it was her plan and your plan to get into the United States, is that correct?

A. That's correct.

Q. And you had to do that within the three week limit, isn't that correct?

A. That's right.

Q. Now, I think you testified that you had made no inquiry concerning how you could get into the United States legally, isn't that correct?

A. I personally didn't.

Q. You personally didn't?

A. No.

x x x

[R. 127]

M O N I C A P R Y C E (102 Clifford Avenue, Rochester, New York), a witness called by and in behalf of the Government, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION BY MR. COHEN:

Q. Mrs. Pryce, where were you born?

A. Kingston, Jamaica.

[R. 128]

Q. And of what country are you a citizen?

A. Jamaica.

Q. And when did you arrive in the United States?

A. 30th of June, 1973.

Q. And from what country did you come?

A. Jamaica.

Q. What is your legal status in this country?

A. I am a permanent resident.

x x x

BY MR. COHEN:

Q. Do you know an individual named Keith Grizzle?

A. Yes.

Q. Could you tell us what your relationship with Mr. Grizzle is?

A. He is my kid's father.

Q. And could you tell us who the father is of the child

[R. 129]

1 you are now carrying?

2 A. Keith Grizzle:

3 Q Directing your attention to June 14, 1973, where were
4 you?

5 A. On June 14th?

6 Q 1973.

7 A. I was in Jamaica at that time.

8 Q And directing your attention to September 14, 1973,
9 would you tell us where you were?

10 A. I was in Rochester.

11 Q Did there ever come a time during September, 1973 when
12 you left Rochester?

13 A. Yes.

14 Q And where did you go?

15 A. Canada.

16 Q And who did you, - and when was that?

17 A. 14th of September.

18 Q And who did you see in Canada?

19 A. Keith Grizzle.

20 Q How long were you in Canada?

21 A. About two days, went there on Friday and came back on
22 Sunday.

23 MR. CRINI: I am sorry, your Honor, I can't
24 hear the witness.

25 THE COURT: You will have to take your time

[R. 130]

1 and speak up. Can you pull the mike down
2 a little bit. All right. Speak up as
3 loudly as you can, please.

4 BY MR. COHEN:

5 Q Where were you in Canada?

6 A In Toronto. I don't remember the address. It was on
7 O'Connor Drive.

8 THE COURT: What drive?

9 THE WITNESS: O'Connor.

10 THE COURT: O'Connor?

11 THE WITNESS: Yes.

12

13 BY MR. COHEN:

14 Q Did you ever have a conversation with Keith Grizzle
15 while you were in Canada?

16 A Yes.

17 Q And where was that?

18 A It was on the 15th of September.

19 Q And what did you say and what did he say?

20 MR. CRIMM: I am going to object to that,
21 your Honor.

22 THE COURT: All right.

23 MR. COHEN: Your Honor - -

24 THE COURT: I know your theory, Mr. Cohen.

25 I think it is best if we not hear that

[R. 131]

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conversation at the present time. I will
sustain the objection.

MR. COHEN: We have already had substantial
background.

THE COURT: I know your argument, Mr. Cohen.
Please get on with asking about other
conversations.

BY MR. COHEN:

Q Mrs. Pryce, where did you go after you left Canada?

A Came back to Rochester.

Q And what happened?

A A few days after - -

THE COURT: Where did you go to?

THE WITNESS: Rochester.

THE COURT: All right.

THE WITNESS: A few days after Junior came over
to his sister's house, Junior Price.

BY MR. COHEN:

Q Were you there?

A Yes.

Q And - -

THE COURT: How are you related to Junior or
to Carol Pryce?

1 THE WITNESS: He is my husband.
2 THE COURT: He is your brother?
3 THE WITNESS: No, husband.
4 THE COURT: He is your husband. I see. All
5 right.

6
7 BY MR. COHEN:

8 Q Now, is he your ceremonial husband?

9 MR. CRIMI: I object to that question, your
10 Honor.

11 THE COURT: She has answered the question.

12 MR. COHEN: Your Honor, on cross examination
13 the door was opened by asking Mr. Grizzle
14 whether or not Mrs. Pryce was a common
15 law wife.

16 THE COURT: I don't know what you mean by
17 "ceremonial". There is an objection. I
18 will sustain the objection.

19
20 BY MR. COHEN:

21 Q And were you present when he came over?

22 A Yes. We were talking with him over there. We were
23 talking about Canada.

24 MR. CRIMI: I object to the conversation.

25 THE COURT: Who was this with and when is the

[R. 133]

1 conversation?

2 BY MR. COHEN:

3 Q When did this conversation occur?

4 A After I came back from Canada.

5 THE COURT: And who were you talking to?

6 THE WITNESS: To Junior Price.

7
8 BY MR. COHEN:

9 Q And this Junior Price, do you see him here today?

10 A Yes.

11 Q Could you, - would you just describe his clothing to
12 us, please?

13 A He has on a blue polka dot suit, light blue shirt and
14 a floral tie.

15 Q Could you tell us where he is sitting, please?

16 A He is sitting over on the right beyond the desk.

17 Q Now, at that time, did you have a conversation with
18 him?

19 A Yes. We were. He said - -

20 MR. CRIMI: I object to the conversation at this
21 point. I won't object to the fact she
22 had a conversation.

23 THE COURT: Very well. Ladies and gentlemen,
24 there are some things I want to talk to
25 the lawyers about and rather than have

[R. 134]

1 us step to the sidebar here, and it may
2 take a few minutes, it seems to me best,
3 why don't you go down. I think it would
4 be best if you went down to the jury
5 room for a few minutes. We will have
6 you back up shortly.

7
8 (Jury escorted from the courtroom.)
9

10 THE COURT:

Mr. Crimi.

11 MR. CRIMI:

Yes, sit.

12 THE COURT:

13 Perhaps it would be best, Mrs. Pryce,
14 if you stepped out into the corridor and
15 we will have you back in a few minutes
16 when we are ready.

17 (Witness escorted from the courtroom.)
18

19 THE COURT:

20 Mr. Crimi, if I understand your
21 objection, you object to this line of
22 conversations between Mrs. Pryce and
23 your client because they are protected
24 by husband-wife?

25 MR. CRIMI:

That's right.

THE COURT:

Is that it? Are they confidential

[R. 135]

communications?

x x x

[R. 154] Hearing out of Jury's presence

PROCEEDINGS: October 30, 1974, 4:20 p.m.

APPEARANCES: As before noted.

(Defendant present.)

(Jury not present.)

THE COURT: Now, we are convened again without the jury present and we will have a hearing on the problems which we discussed out of the jury's presence and before the recess. Mr. Cohen.

M O N I C A P R Y C E, a witness called by and in behalf of the Government, having been previously duly sworn, resumed the

[R. 155]

1 witness stand and testified further as follows:

2

3 DIRECT EXAMINATION BY MR. COHEN (Resumed):

4 Q Mrs. Pryce, do you know an individual named Barrington
5 Pryce?

6 A Yes.

7 Q And how do you know him?

8 A He is the father of my two son.

9 Q Did there come a time when you had a conversation with
10 Barrington Pryce?

11 A Yes.

12 Q About entering the United States?

13 A Yes.

14 Q And when was that?

15 A It was, let's see, 1970.

16 THE COURT: 1970?

17 THE WITNESS: Yes, in Jamaica.

18

19 BY MR. COHEN:

20 Q Where was it?

21 A In Jamaica.

22 Q Where in Jamaica?

23 A Victoria Street.

24 THE COURT: What was the name of the street?

25 THE WITNESS: Victoria.

[R. 156]

- 1 THE COURT: Victoria.
- 2 BY MR. COHEN:
- 3 Q What did you say and what did he say?
- 4 A I asked him if he know anyone could sponsor me to
- 5 America and he said he didn't know, but he would find
- 6 out after he got back.
- 7 THE COURT: He said after he came back?
- 8 THE WITNESS: Yes. He was on vacation in Jamaica.
- 9 THE COURT: All right. He would find out?
- 10 THE WITNESS: Yes.
- 11 BY MR. COHEN:
- 12 Q He was on vacation from where?
- 13 A America.
- 14 Q For what purpose?
- 15 A To take my son for a visit.
- 16 Q And as a result of that conversation, what happened?
- 17 A I didn't hear from him again until April.
- 18 Q April of what year?
- 19 A 1971.
- 20 Q And what did you hear from him?
- 21 A He told me that his brother was coming down on vacation
- 22 and I could get married to him if I wanted to come to
- 23 America.
- 24 Q And how did he tell you this?
- 25 A He wrote me a letter.

1 Q And what did you do after you received that letter?

2 A I showed it to my mother, father, Keith, and my mother
3 says she cannot decide that for me because I am of age
4 and I am living with Keith, I am of age, and Keith
5 said since I am going to get some good in life, he
6 gave me money to marry to Junior.

7 Q After that time, did you see Junior Price?

8 A Yes.

9 Q Where did you see him?

10 A He came to visit me at my home.

11 Q Where?

12 A 12 Victoria Street in Jamaica.

13 Q And when did he come?

14 A I don't remember the date, but it was in May.

15 Q And did you talk to him?

16 A Yes. He asked me if I get the letter from his brother
17 and if I agree and I said, "Yes".

18 Q And then what happened?

19 A Then the next day we went and looked about the marriage
20 and he says if I got married to him, I could sponsor
21 his two kids as their stepmother, to let them come to
22 America.

23 Q What do you mean "sponsor"?

24 A I am the stepmother so I apply for the visit at the
25 same time I apply for mine.

[R. 158]

1 Q All right.

2 THE COURT: Before we go along here any further,
3 Mrs. Pryce, you said you talked about this
4 problem with your mother and your father?

5 THE WITNESS: Yes.

6 THE COURT: And with Keith Grizzle?

7 THE WITNESS: Yes.

8 THE COURT: And Keith said, as I understood you
9 to testify, that he would pay for the
10 marriage?

11 THE WITNESS: Yes.

12 THE COURT: What happened, what did he mean by
13 that?

14 THE WITNESS: See, whenever you go to get married,
15 you have to pay to get the license before
16 you can get married.

17 THE COURT: Was that just for the license?

18 THE WITNESS: Yes.

19 THE COURT: Any other monies paid to Carol or
20 Barrington?

21 THE WITNESS: No.

22 BY MR. COHEN:

23 Q Okay. Now, the two children about which Carol spoke
24 to you about, now, whose children were these?

25 A They are Carol's children.

[R. 159]

1 MR. CRIMI: Carol's?

2 THE WITNESS: Yes.

3 MR. CRIMI: This is complicated.

4 THE COURT: Go ahead, Mr. Cohen.

5

6 BY MR. COHEN:

7 Q Now, did you marry Carol Pryce?

8 A Yes.

9 Q And where did you marry him?

10 A We went to Justice of the Peace.

11 Q And about what time?

12 THE COURT: That was in Kingston?

13 THE WITNESS: Yes.

14 THE COURT: All right, and about what date was
15 this, or month?

16 THE WITNESS: The 20th of May, 1971.

17

18 BY MR. COHEN:

19 Q About what time of the day did you marry him?

20 A Around 10:00 o'clock in the morning.

21 Q And did you leave him?

22 A Yes. He came back and he dropped me at my house and
23 he went his way.

24 Q All right, and when was the next time that you saw
25 Carol Pryce?

[R. 160]

1 A. I didn't see him again until when I came up here.

2 Q Which was when?

3 A. The 30th of June, 1973.

4 THE COURT: You say that after May 20, 1971 - -

5 THE WITNESS: Yes.

6 THE COURT: He dropped you off at your home?

7 THE WITNESS: Yes.

8 THE COURT: After the ceremony?

9 THE WITNESS: Yes.

10 THE COURT: And then you didn't see him again
11 until June of 1973?

12 THE WITNESS: Yes.

13 THE COURT: All right. Go ahead, Mr. Cohen.

14
15 BY MR. COHEN:

16 Q And when you arrived in the United States, did you see
17 Barrington Pryce again?

18 A. Yes.

19 Q And did you have a conversation with either one of those
20 gentlemen relative to the marriage?

21 A. Yes. Barrington picked me up at the airport.

22 Q Who picked you up?

23 A. Barrington.

24 THE COURT: Which airport, Rochester?

25 THE WITNESS: Yes.

[R. 161A]

1 THE COURT: How did you come to the United
2 States then?

3 THE WITNESS: By plane. I came to New York and
4 then I get another plane from New York to
5 Rochester.

6 THE COURT: What papers did you have? Did you
7 have a passport or a visa?

8 THE WITNESS: Yes, I had my papers to prove I
9 applied.

10 THE COURT: And the papers, did they identify
11 you?

12 THE WITNESS: Yes.

13 THE COURT: As Monica Pryce?

14 THE WITNESS: Yes.

15 THE COURT: All right, wife of Carol Pryce?

16 THE WITNESS: Yes.

17 BY MR. COHEN:

18 Q To back track a little bit, what date did you marry
19 Carol Pryce?

20 THE COURT: May 20, 1971.

21 BY MR. COHEN:

22 Q And after your marriage, did you apply for any visa
23 to emigrate to the United States?

24 A Yes.

25 Q And when did you do that?

1 A. The 21st of May, 1971.

2 Q. And in due course, were you issued a visa?

3 A. Yes.

4 Q. And you came to the United States. Okay. Now, who was
5 it picked you up at the airport?

6 A. Barrington.

7 Q. And did you have conversation with Barrington?

8 A. Yes.

9 Q. When he picked you up?

10 A. He said because I didn't get charge of the kids Junior
11 said I would have to pay \$400.

12 Q. What did you say?

13 A. I told him I don't have \$400 on me so as soon as I
14 start working I would pay it.

15 THE COURT: Excuse me. Let us back up. You
16 are talking to Carol or Barrington?

17 THE WITNESS: Barrington.

18 THE WITNESS: Yes.

19 THE COURT: There was some talk about \$400?

20 THE WITNESS: Yes.

21 THE COURT: What was said about the \$400?

22 THE WITNESS: He said Junior said I would have
23 to pay him \$400 because I didn't get to
24 carry his kids.

25 THE COURT: I see. You didn't get the visas for

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1 his kids?

2 THE WITNESS: No.

3 THE COURT: Now, Barrington said to you that
4 Junior says that you owe him \$400?

5 THE WITNESS: Yes.

6

7 BY MR. COHEN:

8 Q Now, at the time that you came to the United States,
9 June 30, 1973, whom were you living with before you
10 left for the United States?

11 A Before I left for the United States?

12 Q Yes.

13 A I was living with Keith.

14 Q And did you live with him up until the time that you
15 left for the United States?

16 A Yes.

17 Q Okay. Now, with respect to that conversation - -

18 THE COURT: On that point after May, 1971, were
19 you living with Keith then?

20 THE WITNESS: Yes.

21 THE COURT: Had you been living with Keith
22 before May, 1971?

23 THE WITNESS: Yes.

24 THE COURT: For about how long?

25 THE WITNESS: About two or three years before.

[R. 163]

- 1 THE COURT: About two or three years before?
- 2 THE WITNESS: Yes.
- 3 THE COURT: But after May of 1971, you continued
4 to live with Keith?
- 5 THE WITNESS: Yes.
- 6 THE COURT: And you continued to live with him
7 right up to June of 1973, when you came
8 to the United States?
- 9 THE WITNESS: Yes.
- 10 THE COURT: Very well.
- 11
- 12 BY MR. COHEN:
- 13 Q Did you pay anybody \$400?
- 14 A No. He said, - Junior said after the arrest came and
15 all this commotion, Junior said I must take my money
16 and look about a divorce.
- 17 Q Have you instituted a divorce proceeding against
18 Junior?
- 19 A Yes.
- 20 THE COURT: So there is no question about what
21 we mean or what Mr. Cohen means by
22 "institution", before we get to that we
23 are just talking about the connection
24 between you and Carol Pryce. When you
25 got here and you met him, Carol Pryce,

[R. 164]

then you lived in Rochester then?

THE WITNESS: Yes.

BY MR. COHEN:

Q Where did you live?

THE COURT: Who did you live in Rochester with?

THE WITNESS: First I stop at his mother.

THE COURT: Carol Pryce's mother?

THE WITNESS: Yes, for the Sunday and the Monday
and the Tuesday I get an apartment at
210 Avenue A.

THE COURT: In Rochester?

THE WITNESS: Yes.

THE COURT: Who was the apartment with?

THE WITNESS: I was living alone.

THE COURT: You were living alone?

THE WITNESS: Yes.

THE COURT: Did you ever live with Carol Pryce?

THE WITNESS: No.

THE COURT: After the marriage ceremony, did
you have sexual relations with him?

THE WITNESS: No.

THE COURT: Not at all since May of 1971?

THE WITNESS: No.

THE COURT: All right.

[R. 165]

1 BY MR. COHEN:

2 Q Did you have any at any time?

3 A No.

4 THE COURT:

We are now up to June of 1973 and
we are talking about now, - Mr. Cohen
asked you about the institution of
divorce action. Do you have a lawyer in
Rochester?

5
6
7
8 THE WITNESS:

No. The lawyer is here in Buffalo.

9 THE COURT:

The lawyer is here in Buffalo?

10 THE WITNESS:

Yes.

11 THE COURT:

What is his name?

12 THE WITNESS:

Mr. Harrington.

13 THE COURT:

Who?

14 MR. COHEN:

Harrington, your Honor.

15 THE COURT:

Harrington?

16 MR. COHEN:

James Harrington, your Honor.

17 THE COURT:

James Harrington, and as far as you
know, did he file some papers?

18
19 THE WITNESS:

Yes.

20 THE COURT:

Did he have you sign something or
other or did he just tell you that he
filed some papers?

21
22
23 THE WITNESS:

He tell me that he filed the papers.

24 THE COURT:

All right, very well, but when did

25

[R. 166]

1

you talk to Mr. Harrington?

2

THE WITNESS:

After last night, his phone at home.

3

I was supposed to go to him this morning,

4

but this case came about.

5

THE COURT:

I see. So that there is no mis-

6

apprehension, when was the first time

7

you talked to Mr. Harrington about this

8

divorce proceeding?

9

THE WITNESS:

In May.

10

THE COURT:

In May of this year, 1974?

11

THE WITNESS:

Yes.

12

THE COURT:

Was that at his office here in

13

Buffalo?

14

THE WITNESS:

Yes.

15

THE COURT:

Then did you meet with him after

16

that?

17

THE WITNESS:

No.

18

THE COURT:

You did not meet with him again?

19

THE WITNESS:

No, on the phone.

20

THE COURT:

The first time did you meet with

21

him in person or on the telephone?

22

THE WITNESS:

In person the first time.

23

THE COURT:

All right. During and since that

24

time, you say you have talked with him

25

on the telephone?

[R. 167]

1 THE WITNESS: Yes, and he write to me because he
2 write me a letter and say he served the
3 papers to Junior.

4 THE COURT: All right. Do you remember about
5 when that happened?

6 THE WITNESS: This was around three weeks.

7 THE COURT: Go ahead, Mr. Cohen. Anything else?

8 MR. COHEN: No, your Honor. Thank you.

9 THE COURT: Mr. Crimi.

10

11 CROSS EXAMINATION BY MR. CRIMI:

12 Q You are still married to Mr. Pryce, are you not, at this
13 moment?

14 A. Yes.

15 Q Now, I think you testified, Mrs. Pryce, that you had a
16 conversation with Barrington Pryce in Jamaica around
17 1970, is that correct, and that would be about four
18 years ago, is that right? I am sorry. You have got
19 to give the answer so he writes it down. That would
20 be about four years ago, is that right?

21 A. Yes.

22 Q Okay. Now, at that time, you were living with Mr.
23 Grisby?

24 A. Yes.

25 Q Grizzle, I am sorry, is that right?

[R. 168]

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1 A. Yes.

2 Q. Okay, but you also had been living with Barrington
3 Pryce before that time?

4 A. No, I never lived with him.

5 Q. Barrington, but you had children by him?

6 A. Yes.

7 Q. How many children did you have by him?

8 A. Two.

9 Q. Two, all right, and you, as I understand your testimony
10 you asked Mr. Barrington Pryce whether or not he could
11 find someone to sponsor you, is that correct?

12 A. Yes.

13 Q. And that was because you wanted to come to the United
14 States?

15 A. Yes.

16 Q. And you wanted to bring Keith with you, is that correct?

17 A. No, I didn't say that.

18 Q. You didn't say that. You wanted to go to the United
19 States by yourself?

20 A. Yes.

21 Q. Okay. Now, a year later or so in April of 1971, you
22 say Mr. Barrington Pryce wrote you a letter?

23 A. Yes.

24 Q. And in the letter, he told you that you could marry
25 Carol Pryce?

[R. 169]

1 A. Yes.

2 Q. And you showed this letter to Keith, didn't you not?

3 A. Yes.

4 Q. And you had a discussion about this letter?

5 A. Yes.

6 Q. And the discussion was concerning, I suppose, whether
7 or not you should marry Carol Pryce?

8 A. That's it.

9 Q. And Keith said, agreed that you should marry Carol
10 Pryce?

11 A. Yes.

12 Q. What was his reason? Do you know why he felt that you
13 should marry Carol Pryce?

14 A. Well, we know that if I got to come to America, nothing
15 gained.

16 Q. I see. After you got to America, you could get Keith
17 into America, is that it?

18 A. Yes.

19 Q. So, and this was as early as 1971 that you were making
20 plans to come to America, is that correct?

21 A. Yes.

22 Q. And Keith wanted this to happen so he said he would
23 pay for the license fee, is that right?

24 A. Yes.

25 Q. Is it about a month later that Junior Pryce came into

[R. 170]

1 Jamaica on vacation?

2 A. Yes.

3 Q. And at that time, did you have conversations with him
4 as to the reason why you wanted to get married to him?

5 A. Oh, my God, repeat the question again.

6 Q. All right. I am sorry. Are you tired?

7 A. More than tired.

8 Q. All right. Did you have a conversation with Carol
9 Pryce as to the reasons why you wanted to marry him?

10 A. No.

11 Q. All right. How long was he in Jamaica before you
12 actually got married on his vacation? Was he there a
13 week?

14 A. He was there about a week, the same week he came in.

15 Q. And Mr. Grizzle was there too, right, in Jamaica at
16 that time?

17 A. Yes.

18 Q. And was there any conversations between the three of
19 you concerning the impending marriage?

20 A. No.

21 Q. No. Well, did Mr. Grizzle attend the marriage?

22 A. No.

23 Q. He knew you got married, though?

24 A. Yes.

25 Q. Did he pay for the license fee?

[R. 171]

- 1 A. Yes.
- 2 Q And then, - but he wasn't there at the marriage?
- 3 A No. He went to work.
- 4 Q He went to work.
- 5 A Yes.
- 6 Q And following that, you say after the marriage, you
- 7 returned home?
- 8 A Yes.
- 9 Q And did you talk, - did you tell Keith that night you
- 10 got married to Carol Pryce?
- 11 A Yes. He know I was going to.
- 12 Q Pardon?
- 13 A He know I was going to marry Junior from the morning.
- 14 He knew about it.
- 15 Q Yes, but when you got home, you told him that it happened?
- 16 A Yes.
- 17 Q Okay. Now, did the children that you bore of Barrington
- 18 Pryce, did they ever come to the United States?
- 19 A One is here.
- 20 Q And how did that child come to the United States?
- 21 A Barry sent for him.
- 22 Q Barry sent for him?
- 23 A Yes.
- 24 Q All right, and is one still in Jamaica?
- 25 A Yes.

[R. 172]

1 Q Now, you say that in June of 1973, you came to the
2 United States; is that correct?

3 A. Yes.

4 Q And you came directly to Rochester?

5 A. I came in the 30th of June. They said the plane could
6 not land in New York, so they take me to Baltimore so
7 we did not reach here until Sunday, which was the 1st
8 of July.

9 Q Now, and then you went, - you stayed with Carol Pryce's
10 mother for one night?

11 A. For two nights.

12 Q Two nights?

13 A. Yes.

14 Q And then you moved in an apartment at 210 Avenue C?

15 A. Avenue A.

16 Q Avenue A. Now, did you write Keith and tell him to come
17 to Canada?

18 A. No.

19 Q No. How did it come about that he came to Canada
20 shortly after you arrived in Rochester?

21 A. Well, Keith, he is, - he has asthma. Keith hasn't
22 good health in Jamaica and he was planning to leave
23 Jamaica whether I leave or not.

24 Q I see, and what, - and he was going to come to, - he
25 was planning to leave Jamaica to go where?

[R. 173]

1 A. Either Canada or America.

2 Q I see, so he, - but he went to Canada for a vacation,
3 is that right?

4 A. Yes.

5 Q And he must have advised you of that, is that correct?

6 A. Yes.

7 Q And then you wrote him or went to see him again in
8 Canada, is that correct?

9 A. Yes.

10 Q Was it your intention when you married Pryce that not
11 only you but Keith would eventually come into the
12 United States?

13 A. Yes.

14 Q That was your intention?

15 A. Yes.

16 Q And you had planned on that, is that correct, as the
17 result of your marriage?

18 A. Yes.

19 Q And Keith knew about this, is that correct?

20 A. Yes.

21 Q And you say all of this started pretty much about the
22 time when you had a conversation with Mr. Barrington
23 Pryce about 1970, is that right?

24 A. Yes.

25 MR. CRIML: I have no further questions.

[R. 174]

1 THE COURT:

Mr. Cohen, any further questions?

2 MR. COHEN:

No. Thank you, your Honor.

3 THE COURT:

Any further evidence at the hearing?

4 MR. SKRETTY:

May we just have one moment, your
Honor?

6 MR. COHEN:

Your Honor, the Government does have
two letters in the name of Carol Pryce
with an address at 10 Dudley Street in
Rochester, New York, directed to the
Immigration Service from both before and
after Monica Pryce resided, - came to the
United States and we can't say for sure
that it is the handwriting of Carol Pryce
but it does relate to the subject matter
of the testimony and we would like to
offer them for purposes of this hearing
and this hearing only.

18 THE COURT:

Do you object?

19 MR. CRIMI:

I am going to object to this, your
Honor.

21 THE COURT:

I think they have to be authenticated
in some other way, Mr. Cohen, as to the
genuineness of the letters, so I will
sustain the objection. All right. Mr.
Crimi, the Government has nothing further

25

[R. 175]

on the hearing. Do you have anything on the hearing?

MR. CRIMI:

No. I have no evidence to present as such.

THE COURT:

All right. The evidence on the hearing is closed. Let us do this. Will both of you look at the authorities overnight. I think here simply on the question about whether or not where we have a ceremonial, - ceremonial marriage, there is no, - the Government doesn't question that, there was a marriage before a Justice of the Peace and we are going to take it for granted that it was in accordance with the laws of Jamaica; it was a valid marriage; that the Government argues that it was a sham and therefore, the husband-wife privilege should not be permitted and that Mr. Pryce should not be permitted to prevent the testimony from coming in, so can we meet at 9:30, - would 9:30 be too early?

x x x

COURT'S ORAL OPINION

[R. 185]

THE COURT:

We have to, before we can discuss the law, of course, we have to take the facts as they are in this particular case. We have the fact that these two individuals were married. The Government will agree and admit that, and then before that, however, we know that for some time, Monica Pryce had been living with Keith Grizzle and that during that period of time, she bore two children, - the father Barrington Pryce. After the marriage, the evidence is that Carol and Monica Pryce did not ever live together. The marriage was never consummated and that when she then came to the United States, there was some conversation that Monica owed Carol \$400 because she did not bring in two children of Carol's by another relationship to the United States, so that it appears to the Court that the parties never intended to live as husband and wife. The reasons for the

[R. 186]

1 husband and wife privilege which Mr.
2 Cohen discussed, - that is the protection
3 of the marital relationship and the
4 fact that if you let husband or wife
5 testify against the other, it certainly
6 would create a spirit of disunity, would
7 destroy the marriage, - that is not at
8 all present here. At the present time,
9 and for all of the history that we have
10 heard in this particular case, Monica
11 Pryce has lived with Keith Grizzle and
12 I think your comment upon the rules, Mr.
13 Cohen, - the proposed rules of evidence, -
14 it certainly leaves this question up in
15 the air. It just doesn't seem to treat
16 of it at all and therefore, I find that
17 under all of the circumstances, that
18 Monica can testify about conversations
19 that she had with Carol Pryce and while
20 we are at it, we also discussed yester-
21 day the problem of her conversations
22 with Keith Grizzle. It seems to me that
23 the evidence is now sufficiently along
24 for us to say that there was a conspiracy
25 sufficiently formed so that these two

[R. 187]

individuals were conspirators and their conversations, one with another, may be received in evidence, especially since we now know that shortly after her conversation with Mr. Grizzle in the middle of September, that she did have a conversation with Carol Pryce a day or two later, so, Mr. Crimi - -

MR. CRIMI:

I just want to note my exceptions to your ruling.

THE COURT:

All right, fine.

MR. COHEN:

Thank you.

THE COURT:

Mr. White, call the jury up, please.

x x x

1 TONICA PRYCE, a witness called by and in behalf
2 of the Government, having been previously duly sworn, resumed
3 the witness stand and testified further as follows:

4
5 REDIRECT EXAMINATION BY MR. COHEN:

6 THE COURT: Mr. Cohen, go ahead.

7 BY MR. COHEN:

8 Q Mrs. Pryce, directing your attention to September 14,
9 1973, could you tell us where you were?

10 A I was in Canada.

11 Q And who did you see?

12 A Keith Grizzle.

13 Q And where in Canada were you?

14 A Toronto.

15 Q And how long were you in Canada?

16 A Two days.

17 Q Did you have a conversation with Mr. Grizzle while you
18 were in Canada?

19 A Yes.

20 Q And where did that take place?

21 A At his sister's home at O'Connor Drive.

22 Q In what city?

23 A Toronto.

24 THE COURT: Excuse me. Mrs. Pryce, keep your
25 voice up, please. It is very important

That the jurors hear everything.

Okay.

You can pull your chair up further
you desire so you can speak into the
ophone. Just take your time, Mr.
n, so that the witness has plenty
time to respond.

BY MR. COHEN:

Q. Yes, your Honor. Would you tell us, please, what you said and what he said?

MR. CRIMI: Excuse me, your Honor. I will have
a continuing objection.

THE COURT: You object. Overruled.

THE WITNESS: He asked me if I could get someone to help him to come over to Rochester where I am so I told him I would try as soon as I get back over.

BY MR. COHEN:

Q And where did you go from Canada?

A. Back to Rochester.

Q. And what happened after you returned to Rochester?

A. A few days after Junior Pryce came over.

Q All right. About what day was that?

A. He came around the Tuesday or the Wednesday because I came back Sunday night.

[R. 190]

1 MR. CRIMI: Excuse me. I am sorry. I haven't
2 been able to hear a word. I will stand
3 up.

4 THE COURT: Please, Mrs. Pryce, this is important
5 and I know it is an effort, but it won't
6 take too long, and keep your voice up
7 and speak as slowly and as clearly and
8 as loudly as you can.

9 THE WITNESS: Okay.

10 THE COURT: Where were you in Rochester then?

11 THE WITNESS: At Avenue A at my home.

12 THE COURT: At your home at Avenue A in Rochester?

13 THE WITNESS: Yes.

14

15 BY MR. COHEN:

16 Q And who was present when Mr. Pryce arrived?

17 A No one. Just him and I was talking.

18 THE COURT: No one, and then what did you say?

19 THE WITNESS: Just I and Junior was talking.

20

21 BY MR. COHEN:

22 Q And who is Junior Price?

23 A Carol Pryce, my husband.

24 Q And is he here today?

25 A Yes.

[R. 191]

1 Q. Would you describe him for the jury, please?

2 A. He has a blue coat, striped blue shirt and is sitting
3 on the right-hand side.

4 THE COURT: Go ahead. Please continue.

5

6 BY MR. COHEN:

7 Q. Is he sitting in front of the railing or behind the
8 railing?

9 THE COURT: Mr. Cohen, I think it is adequate
10 from her description. Would you continue,
11 please?

12 THE WITNESS: Okay.

13

14 BY MR. COHEN:

15 Q. Would you please tell us, did you have a conversation
16 with him?

17 A. Yes.

18 Q. And would you tell us please what you said and what
19 he said?

20 MR. CRIMI: I have a continuing objection.

21 THE COURT: Yes.

22 THE WITNESS: He said you went to Canada and I
23 said "Yes", and we were talking other
24 things and I asked him if he knew anyone
25 could help Keith and he says no, but he

[R. 192]

1 would find out.

2 BY MR. COHEN:

3 Q Did you have any other conversations with Mr. Pryce?

4 A Yes.

5 Q And when was that?

6 A The other week he come back to me and said he find
7 someone who could help Keith, but it would cost me
8 \$300.

9 Q And what did you say?

10 A I said, "Okay, Keith doesn't have the \$300", but I would
11 find the rest.

12 Q Did you have any other conversations with Mr. Pryce
13 relating to this subject?

14 A Well, he said, - he came back, - he phoned one day
15 and asked me for Keith height and Keith age.

16 Q And when was this?

17 A It was on a Wednesday. I don't really remember the
18 day. Either a Wednesday or a Thursday, sometime like
19 that. I know it wasn't a Monday.

20 Q And what did you say?

21 A I give him the description and he said "Okay".

22 Q Did you have any other conversations prior to October
23 1, 1973 relating to this matter?

24 A He came back the Sunday and asked me for Keith address
25 and Keith phone number in Canada.

[R. 193]

Q. Did you ever relate the substance of any of these conversations to anyone else?

A. No.

Q. Did you ever have any conversations between September 14th and October 1st with Keith Grizzle?

A. Yes. I told him that Junior get someone to sponsor him.

Q. And when did you do that?

A. I guess it was the same evening he told me that he find someone I phoned Keith and told him.

x x x

[R. 194]

BY MR. COHEN:

Q. Could you tell us what you said and what he said, please?

A. I told him that Junior get someone to help him.

THE COURT: Go ahead, Mr. Cohen.

THE WITNESS: So he said, "Okay", nothing more.

BY MR. COHEN:

Q. Did you have any further conversation with Keith Grizzle prior to October 1, 1973?

A. I called him Sunday after Junior came for the address and phone number and told him somebody would be coming for him on Monday.

Q. Did you tell him who?

A. No, because I didn't know who it was.

BY MR. COHEN:

Q. Mrs. Pryce, directing your attention to October 1, 1973 about 9:00 p.m., could you tell us what happened?

A. I got a phone call from - -

Q. Now, would you just stop right there. Did you recognize the, - did you recognize the voice on the other end?

[R. 203]

A. Yes.

Q. And how did you recognize the voice? Had you ever heard it before?

A. Yes.

Q. And whose voice was it?

A. It was Junior's voice.

Q. Could you tell us what happened, please?

A. He phoned me and asked me if they didn't come as yet. I said, "No". He said "I don't know what happened. Maybe they are lost. I will see you when I come".

Q. Do you know from where the phone call was made?

A. Yes, it was from Buffalo.

Q. How do you know that?

A. It was a collect call and the operator say a collect call from Buffalo. I asked Junior where he was calling from and he told me and he told me he was in Buffalo.

Q. Directing your attention to again on October 1, 1973, but this time 11:00 o'clock at night, could you tell us, please, what happened?

[R. 203]

A. Junior came over to my apartment and he asked me if they didn't come as yet and I said "No", and he said "What could have happened to them, maybe they are lost", and then he left and went and the next morning he called me and say - -

x x x

[R. 204]

BY MR. COHEN:

Q. Did you have any further conversations with Mr. Pryce about this matter?

A. Not until the next day.

Q. Could you, - and when did you have the conversation?

A. It was in the morning. He calls me and says "They arrest Keith and Killo".

Q. Have you ever met an individual by the name of Killo?

[R. 205]

1 A Yes.

2 MR. CRIMI: I am sorry. What is the name of this
3 individual?

4 MR. COHEN: Killo.

5 THE COURT: How do you spell that?

6 THE WITNESS: K-i-l-l-o.

7
8 BY MR. COHEN:

9 Q How did you come to meet him?

10 A He came over with Junior to his sister's house one
11 evening and Junior introduced me to him and said,
12 "Monica - -"

13 Q When was that?

14 A That is before we have the argument about Keith, because
15 I didn't leave for Canada yet.

16 MR. CRIMI: Excuse me.

17 THE COURT: Excuse me. Who is Killo?

18 Is that his real name?

19 THE WITNESS: That is Leroy Cephas.

20 THE COURT: That is the name that he uses,
21 Killo?

22 THE WITNESS: Yes.

23 THE COURT: Leroy Cephas?

24 THE WITNESS: Yes.

25 THE COURT: All right. Go ahead, Mr. Cohen.

[R. 206]

1 BY MR. COHEN:

2 Q You indicated that, - did you have any conversation
3 with, - would you tell us where you were when you met
4 this individual whose name is Killo?

5 A I was over at Avenue A at Junior's sister's apartment.

6 Q And who was present?

7 A His sister was there and Junior and Killo was there.

8 Q And did Mr. Pryce say anything to you?

9 A Well, we went outside because he was washing his car.

10 THE COURT: Excuse me. When was this?

11 THE WITNESS: I don't remember the date, but it
12 was before all these things occurred.

13 THE COURT: Was it in September of 1973?

14 THE WITNESS: Yes, around there.

15 THE COURT: Sometime in September of 1973?

16 THE WITNESS: Yes.

17 THE COURT: All right. Go ahead, Mr. Cohen.

18 He was washing his car?

19 THE WITNESS: Yes.

20 THE COURT: And then what happened?

21 THE WITNESS: He said, "Monica, this is Killo,
22 don't you remember him", and I said,
23 "No", and we were talking and he was
24 telling me "You remember my father and
25 cousin", and we were talking about

[R. 207]

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Jamaica. That was all.

BY MR. COHEN:

Q All right. Could you describe this individual known as Killo?

MR. CRIMI:

I am going to object. I don't know what is the materiality.

THE COURT:

I will permit that. Overruled. Maybe there is a point. His age and height, if you can tell us, about how old?

THE WITNESS:

I don't know. I would say he is about twenty or so, slim, dark, not bad looking is all I can say about him.

THE COURT:

Next question, please, Mr. Cohen.

BY MR. COHEN:

Q Did there come a time when you knew him by a different name?

A Yes.

Q And when was that?

A On the day after they arrested him he phoned me from Buffalo.

Q And how did you learn, - and what was the name you came to know him by?

MR. CRIMI:

I am going to object to the conversa-

[R. 208]

tions now at this point. Have you asked what time the phone call came in?

THE COURT: This was the - -

MR. COHEN: The day after.

THE COURT: The day after the 1st?

THE WITNESS: Yes.

THE COURT: Mr. Cephas called you from Buffalo?

THE WITNESS: Yes.

x x x

[R. 211]

RECROSS EXAMINATION BY MR. CRIMI:

Q. Mrs. Pryce, do you know when Mr. Grizzle arrived in Canada?

A. Yes.

Q. When was that?

A. The 14th of September, 1973.

Q. Okay, and Mrs. Grizzle, - I am sorry, Mrs. Pryce, did you learn that from correspondence with him or how?

A. His sister called me and told me he was coming.

Q. Did he call you from Jamaica?

A. His sister called me from Canada.

Q. I am sorry. His sister called you from Canada?

A. Yes.

Q. Did she call you before or after he came to Canada?

[R. 212]

- 1 A. Before he came to Canada.
- 2 Q. I see. Now, had you been corresponding with him while
- 3 he was in Jamaica before he came?
- 4 A. Of course.
- 5 Q. And did you correspond with him on a daily basis or
- 6 a weekly basis or a monthly basis or how often?
- 7 A. What do you mean, by phone or by mail?
- 8 Q. By mail.
- 9 A. I write him every week.
- 10 Q. All right. Did you also correspond with him by phone?
- 11 A. Yes.
- 12 Q. Okay. Did that, - you did that on a weekly basis or
- 13 a monthly basis or what?
- 14 A. Whenever I feel like it, because any day of the week
- 15 when I feel like calling, I call.
- 16 Q. Now, you left Jamaica on June, - in June of 1973, is
- 17 that correct?
- 18 A. Yes.
- 19 Q. And in any of this correspondence or either by telephone
- 20 or letter did Mr. Grizzle communicate, inform you that
- 21 he would like to get into the United States?
- 22 A. No.
- 23 Q. No. That was never discussed?
- 24 A. No.
- 25 Q. Was that ever discussed at all while you were in

[R. 213]

1 Jamaica with Mr. Grizzle?

2 A. Yes.

3 Q. But not during the period from June to September?

4 A. No.

5 Q. Is that correct?

6 A. Yes.

7 Q. All right. Now, when did you go up to see him? What
8 was the date that you went up to see him in Canada?

9 A. The 14th, the same day he arrived I went there.

10 Q. All right, and at that time was there a discussion
11 about the possibility of him getting in?

12 A. Yes.

13 Q. And he asked you to try to get somebody to help him,
14 is that right?

15 A. Yes.

16 Q. And how long did you stay in Canada?

17 A. Two days.

18 Q. Two days, so I take it you returned to Rochester, New
19 York, is that right, by the 16th?

20 A. Yes.

21 Q. Now, prior to this time, - now I am talking about
22 prior to September 14th or the 16th, had you met this
23 individual by the name of Killo?

24 A. Repeat the question, please.

25 Q. All right. Well, let me ask it to you in another way.

[R. 214]

- 1 Do you recall when you met this individual by the name
2 of Killo?
- 3 A. Yes.
- 4 Q. And when was that?
- 5 A. In September.
- 6 Q. All right. Now we have got him in September. I wonder
7 if I could impose upon you to tell whether that was
8 before you went to Canada?
- 9 A. Before I went to Canada.
- 10 Q. So it was, therefore, before September 14th?
- 11 A. Yes.
- 12 Q. Now, as I understand your testimony, you had a conversa-
13 tion with this Killo, is that correct?
- 14 A. Yes.
- 15 Q. And this conversation took place in the driveway, -
16 Strike that out. This conversation took place outside
17 where Mr. Pryce was washing his car, is that correct?
- 18 A. Yes.
- 19 Q. And was this in a driveway or on the street or what?
- 20 A. A driveway.
- 21 Q. A driveway, and where was this driveway located?
- 22 A. At his sister's house.
- 23 Q. Pardon?
- 24 A. His sister's house, 216 Avenue A.
- 25 Q. Where does his sister live?

[R. 215]

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1 A. 216 Avenue A.

2 Q. Is that near where you live?

3 A. Next door.

4 Q. So you are a next door neighbor, at that time, at least,
5 to Mr. Pryce's sister, is that correct?

6 A. Yes.

7 Q. Okay. Now, you heard Mr. - -

8 THE COURT: Excuse me. In case her name should
9 come up again, what is her name, please?

10 THE WITNESS: His sister's name?

11 THE COURT: Yes.

12 THE WITNESS: Mrs. Jo Ann Simpson.

13 THE COURT: John Simpson?

14 THE WITNESS: Jo Ann Simpson.

15 MR. CRIMI: Jo Ann.

16 THE COURT: Jo Ann Simpson.

17

18 BY MR. CRIMI:

19 Q. Okay. Well, you had an opportunity to talk to this
20 Killo, is that correct?

21 A. Yes.

22 Q. And you heard his voice on some several occasions at
23 that particular time? In other words, there was a
24 conversation in the driveway with this Killo, is that
25 correct?

A. Yes.

[R. 216]

1 Q So you were able to recognize the voice, is that
2 correct?

3 A Yes.

4 Q And I think you testified that subsequently, you
5 received, - and I don't want you to get into the
6 conversation, - but you received a phone call and you
7 said it was Killo's voice that you heard, is that
8 correct?

9 A I didn't say that because I didn't get to ask that
10 question.

11 Q You weren't asked that question?

12 A No.

13 Q Well, was that voice you heard where you heard the
14 voice of Leroy Cephas, was that the same voice as
15 Killo's?

16 A Yes.

17 Q Of course.

18 A Junior's voice is different from Killo's voice.

19 Q But you recognized it as Killo's voice?

20 A Yes.

21 Q But this fellow Killo or Leroy Cephas was without any
22 doubt in the City of Rochester on September, - between
23 the 1st and the 14th of September of 1973, is that
24 right?

25 A Yes.

[R. 217]

1 Q Okay. When you returned from Toronto, you went to your
2 apartment at 210 Avenue A, is that correct?

3 A Yes.

4 Q And you were living there alone, as I understand it.

5 A Yes.

6 Q And you had been in the United States for two, three
7 months, is that correct?

8 A Yes.

9 Q All right. I am just trying to get some answers from
10 you, Mrs. Pryce. In relation to the time that you
11 returned to your apartment, when was it that you saw
12 Mr. Pryce, Mr. Carol Pryce?

13 A One day in the week.

14 Q One day during the week?

15 A Yes.

16 Q And how did that come about?

17 A When he came to visit his sister all the time and I
18 was there and we was talking.

19 Q Did you go from your apartment to his sister's apartment?

20 A Yes.

21 Q And you saw him?

22 A Yes.

23 Q And you asked him a certain question concerning about
24 help in getting somebody from Canada?

25 A Yes.

[R. 218]

- 1 Q You started the conversation?
- 2 A Yes, I asked him.
- 3 Q Tell us exactly what you said to him?
- 4 A After getting into the conversation, I just told him
- 5 "What about helping Keith".
- 6 Q Well, you might have been talking about a lot of
- 7 things.
- 8 A I just asked him.
- 9 Q You asked him something in relation to Keith Grizzle,
- 10 is that correct?
- 11 A Yes.
- 12 Q That is what we are trying to find out in this case.
- 13 What did you ask him about Keith Grizzle.
- 14 A I ask him if he knew anyone could help him.
- 15 Q All right. Now, and he responded that he did not know
- 16 at that time, is that correct?
- 17 A Yes.
- 18 Q Did you tell him that you were anxious to have Keith
- 19 come to the United States?
- 20 A Yes, I told him that.
- 21 Q Mr. Pryce?
- 22 A Yes.
- 23 Q Did you tell him why you wanted him to come to the
- 24 United States?
- 25 A Do I have to tell you that?

[R. 219]

1 THE COURT:

Did you tell him?

2 THE WITNESS:

Yes. We were talking.

3 THE COURT:

Talk to the jury, please, Mrs. Pryce.

4 THE WITNESS:

Yes, I told him that Keith couldn't
5 keep any good health in Jamaica, the
6 place is too hot and I would like him to
7 come and help himself.
8

9 BY MR. CRIMI:

10 Q. And you told him, - did you tell him that the economic
11 situation was difficult for Keith in Jamaica? Did you
12 tell him that?

13 A. Repeat what you said.

14 Q. Well, I don't want to put words in your mouth. Did
15 you tell him why you wanted to help Keith?

16 A. I told you what I told him. Yes, I told him what I
17 tell you.

18 Q. I am sorry. I didn't understand what you said.

19 A. I told you that Keith couldn't keep any good health
20 in Jamaica.

21 Q. Okay. In words or substance, you told him you were
22 anxious to get Keith to come to the United States,
23 isn't that correct, Mrs. Pryce?

24 A. Yes.

25 Q. I am not trying to be difficult at all.

[R. 220]

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Q You are giving me a hard time.

THE COURT: Mrs. Pryce, do you want to take a recess?

THE WITNESS: I just want to get this thing over with.

THE COURT: Mrs. Pryce, it won't be much longer. This is an important matter and Mr. Crimi is entitled to ask questions. You have been answering the questions, I know, to the best of your ability and will continue to do so and it is important that Mr. Crimi be able to ask questions and that you give him answers just as well as you can. All right, Mr. Crimi.

BY MR. CRIMI:

Q Thank you. Now, subsequent to this conversation, you, I believe, testified that you had another conversation concerning Mr. Grizzle with Mr. Pryce, is that correct?

A Yes.

Q Now, do the best you can. How long after the first conversation was that?

A I didn't keep check on the date, but a couple days after. I don't know.

Q And where did that conversation take place?

[R. 221]

1 A In my apartment.

2 Q In your apartment?

3 A Yes.

4 Q Okay, and did he come to see you to talk about this
5 or - -

6 A Yes.

7 Q And what did he say at that time?

8 A He said he found someone could help Keith, but it would
9 cost me \$300.

10 Q Now, did he tell you who that someone was that could
11 help you?

12 A Not at the present time.

13 Q Not at that time?

14 A No.

15 Q When did he tell you about it?

16 A It was the Sunday he came for the address and the phone
17 number. He said it was Killo.

18 Q All right. So that before the Sunday, - was it a
19 Sunday that he came for the address?

20 A Yes, because he was going on Monday.

21 Q All right, and on the Sunday he told you that it was
22 Leroy Cephas?

23 A Yes.

24 Q That was going to help you, is that correct?

25 A Yes.

[R. 222]

1 Q Now, let me ask you, I think in direct examination you
2 used the word "argument" and it wasn't explained, but
3 as I understand it "argument" in Jamaican language
4 means "conversation"?

5 A Yes.

6 Q It is not the same as in English where we mean people
7 are fighting, so it isn't, - if you testified you had
8 an argument, you meant you had a conversation?

9 A Yes.

10 Q Okay. Mrs. Grizzle, did you know, - you say there was
11 a conversation as to money, is that correct?

12 A Yes.

13 Q And were you told who was going to get this money?

14 A No, he didn't tell me.

15 Q He didn't tell you?

16 A No.

17 Q Are you sure about that?

18 A Of course.

19 Q All right, and did you, - when you came into the
20 United States, which is June 30th, - was it June 30,
21 1973?

22 A Yes.

23 Q Where did you go to live?

24 A At his mother's house. I stopped there for two nights
25 and then I moved to 210 Avenue A.

1 Q Did you ever live at 10 Dudley Street?

2 A No.

3 Q Never did?

4 A No.

5 Q Positive about it?

6 A Of course.

7 Q All right. Now, Mrs. Pryce, you were called, were
8 you not, to give a statement to the Federal Investigators
9 in this case?

10 A Yes.

11 Q And you were, - you did give a statement?

12 A Yes.

13 Q On or about November 10, 1973, - in November?

14 A Yes.

15 Q Mr. Devine, - Mr. Devine was the person, - do you know
16 Mr. Devine?

17 A Yes.

18 Q He was the one that took it?

19 A Yes.

20 Q Did you swear to tell the truth in that statement?

21 A Yes.

22 MR. CRIMI: I am reading from Court Exhibit
23 8, your Honor, which is a record of a
24 sworn statement.

25 THE COURT: Is that the original, Mr. Crimi?

[R. 224]

1 MR. CRIMI: Well, no, I guess he has got the
2 original.

3 THE COURT: This is a statement of the witness,
4 no question about that?

5 MR. CRIMI: Yes.

6 MR. COHEN: Do you want to see it?

7 THE COURT: Do you want the original?

8 Mr. White has the original, Mr. Crimi,
9 so there is no question about it. Is it
10 signed?

11 THE CLERK: It is a photocopy.

12 THE COURT: You did give a statement. Mr.
13 Crimi is going to ask you some questions
14 which were contained in the statement.
15 Go ahead, Mr. Crimi. Mr. Cohen, it seems
16 to me, Mr. Crimi and Mr. Cohen, the
17 best one to use is the signed original
18 if we have that. It is not necessary,
19 but if there is a question, and some-
20 times there is a question in the
21 witness' mind. You may proceed, Mr.
22 Crimi.

23 MR. CRIMI: Your Honor, this is a sworn, -
24 it is not, - all right.

25 THE COURT: Go ahead.

1 BY MR. CRIMI:

2 Q Do you recall being asked questions by Mr. Devine on
3 November 10th?

4 A I don't remember the date.

5 Q But you do recall being asked questions about this case?

6 A Yes.

7 Q All right, and was this question asked of you, "Question:
8 Mrs. Pryce, since your entry in the United States on
9 June 30, 1973, where have you resided? Answer: 10
10 Dudley Street". Was that question asked of you and
11 was that answer true?

12 A I told him I wasn't living there.

13 Q You told him you weren't living there?

14 A I told him, yes, I was living at 10 Dudley Street, but
15 I didn't live there.

16 THE COURT: So there is no confusion, Mr. Cohen,
17 I understand this but I want to be sure
18 the jury understands it. Mrs. Pryce
19 made a statement. It was typed by Mr.
20 Devine or someone working with him and
21 do you have a signed original? Did she
22 sign the statement? Did you sign the
23 statement, Mrs. Pryce?

24 MR. CRIMI: No, but there is a question here.

25 THE COURT: I know that, Mr. Crimi, but I want

1 to make sure the witness understands what
2 we are doing. After Mr. Devine asked you
3 the questions, did you sign the paper?

4 THE WITNESS:

No.

5 THE COURT:

Is it indicated that it is signed,
6 Mr. Crimi?

7 MR. CRIMI:

It doesn't indicate it is signed,
8 your Honor, but it indicates it was a
9 sworn statement.

10 THE COURT:

All right.

11 MR. CRIMI:

The question is "Do you swear to
12 the statements", and then it says it is
13 a true recording.

14 THE COURT:

It is recorded?

15 MR. CRIMI:

Apparently, it is recorded. Let
16 me read the certification if the Court
17 wants.

18 THE COURT:

All right, read the certification.

19 MR. CRIMI:

"I certify that the foregoing
20 statement consisted of eleven", spelled
21 out, and then eleven in parentheses and
22 numerically, "pages is a true and correct
23 transcription of an edison voice record
24 in this matter", and it is signed by
25 Elizabeth A. Sweitzer, Clerk Stenographer.

1 THE COURT:

2 All right. So what this is, Mrs.
3 Pryce, is that Mr. Devine asked you some
4 questions and you gave some answers and
5 during that period of time, that record-
6 ing was made on a machine of the questions
7 given and the answers given. Then later
8 on, one of the employees of the Immigra-
9 tion Service typed up from the record,
10 made a typed transcript and she certifies
11 now that what she heard on the machine,
12 she has typed here on the paper and she
13 certifies that it is accurate. Very
14 well. You may continue, Mr. Crimi.

15 BY MR. CRIMI:

16 Q Okay. One of the questions asked you was, "Mrs. Pryce,
17 since your entry in the United States on June 30,
18 1973, where have you resided", and the answer says
19 "10 Dudley Street". Now, was that answer of yours
20 true or false at the time that you made it?

21 A. It wasn't true.

22 Q. It was not true?

23 A. No.

24 Q. And the next question "How long did you remain at
25 10 Dudley Street? Answer: About a month". Was that

1 answer true or false when you made it?

2 A It wasn't true.

3 Q It wasn't true. Next question on Page 3, "Question:
4 With whom did you reside? Answer: Carol Pryce." Was
5 that true or false?

6 A That was false. That was what they told me to say when
7 I came here.

8 THE COURT: Even though Mr. Crimi is close to
9 you, if you want to look at the paper
10 while Mr. Crimi asks you the questions
11 that is why he is standing there, but it
12 is important that you keep your voice up
13 so that the jury can hear what you say.
14 Mr. Crimi, will you repeat the question
15 and answer, please?

16
17 BY MR. CRIMI:

18 Q Yes. The question was "With whom did you reside?
19 Answer: Carol Pryce". Was that answer true or false
20 when you gave that?

21 A It wasn't true.

22 Q It was not true. All right. Now, further down on the
23 paper, it says, "Question: When did you move from
24 - -" No. I am sorry. "After one month at Dudley
25 Street, did you move? Answer: Yes. It was at

1 210 Avenue A." Was that true or false?

2 A. It isn't true.

3 Q It isn't true. Now, when you gave the statement, do
4 you recall giving it in front of Mr. Devine, is that
5 correct?

6 A. Yes.

7 Q And you recall this question, "Do you swear that all
8 the statements you are about to make will be the truth,
9 the whole truth and nothing by the truth, so help you
10 God", and the answer was "Yes".

11 A. Yes. I didn't swear on a Bible.

12 Q Pardon?

13 A. I didn't swear on a Bible.

14 Q You didn't swear on a Bible, but you answered "Yes" to
15 that question, is that correct?

16 A. Yes. It was what I was told to say. I just come in
17 and they told me what to say.

18 THE COURT: Mrs. Pryce, whatever you say you
19 have to make sure the jury hears you.

20 THE WITNESS: That is what they told me to say
21 when I went in because I just came in
22 and if I don't say it right, I must go
23 to jail, so what am I to say.

24 BY MR. CRIMM:

25

Q. All right. The answers were not true, is that correct?

A. No.

Q. All right. Now, you also testified before a grand jury, is that correct? Do you remember that?

A. Yes.

Q. All right. That was January 8th? Who has the original of that, - 1974.

THE COURT: Mr. Cohen.

MR. COHEN: Your Honor, I believe there are two originals. The Court has one and I have one.

THE COURT: Do you have that, Mr. White?

MR. CRIMI: Two originals? I have Exhibit 7.

I am sorry.

MR. COHEN: That would be Court Exhibit Number 7.

BY MR. CRIMI:

Q. Now, I think you testified that nothing was ever said as to who was going to get the money, is that correct, just fifteen minutes ago when I was asking you? Did you testify to that? Mrs. Pryce, would you answer my question? Was there any conversation between you and Mr. Carol Pryce as to who was going to get the money?

THE COURT: Mrs. Pryce, do you want to take a recess?

THE WITNESS: Yes.

x x x

1 DONALD A. PRYCE, a witness called by and in behalf
2 of the Government, having been previously duly sworn, resumed
3 the witness stand and testified further as follows:

4
5 CROSS EXAMINATION BY MR. CRIM: (Resumed):

6 THE COURT: All right, Mr. Crim, when you are
7 ready.

8
9 BY MR. CRIM:

10 Q Mrs. Pryce, during any of your conversations with Mr.
11 Carol Pryce, did he tell you who was going to get this
12 money that you were talking about?

13 A No.

14 Q You are sure about that?

15 A Yes.

16 Q Mrs. Pryce, do you remember coming into this building
17 and testifying before the grand jury?

18 A Yes.

19 Q And do you recall Mr. Cohen being there asking you
20 questions, - Mr. Cohen being this individual?

21 A Yes.

22 Q Okay. Would I be correct in saying that that was
23 sometime in January, 1974?

24 A Yes.

25 Q Do you recall being asked this question, - if you want

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1 to read this, I will have it available for you,
2 It concerns the conversation that you had with Mr.
3 Pryce and the question, - I might as well give it to
4 you also. He asked you this question, "Let me go over
5 the sequence a few days after you visited Keith you
6 had a conversation with Mr. Pryce in which you mentioned
7 a sponsorship and that you had another conversation when
8 he came back to you, correct?"

9 A. Yes.

10 Q. And "Answer: Yes, he said he had someone could help
11 Keith".

12 A. Yes.

13 Q. Do you remember those questions and answers?

14 A. Yes.

15 Q. "Did he mention price, the exact amount it would cost
16 at the time?", and the answer "Yes. He said it would
17 cost me \$300."

18 A. Yes.

19 Q. Incidentally, Mr. Cohen, I am reading from Page 12
20 of Exhibit 7. "Question: And what did you say?
21 Answer: I said yes. I said Keith have a hundred
22 fifty and he would give it and I would pay the rest",
23 you said that?

24 A. Yes.

25 Q. "Question: Then what did he say? Answer: He said

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1 well, that was okay and he leave", is that the question
2 and answer?

3 A. Yes.

4 Q "Question: He said it was okay and he would have to
5 check it out."

6 A. Yes.

7 Q "Answer: Well, he say either when he told me about
8 \$300 he checked that out. You see, it is so complicated
9 because sometimes he came in the evening because sister
10 living next door. I don't remember which day, but I
11 know we talk about it."

12 A. Yes.

13 Q You remember giving that answer to that question?

14 A. Yes.

15 Q All right. "Question: In person? Answer: In person.
16 The only conversation on the phone was his age.

17 Question: Oh, I see. When was that? Answer: -you
18 didn't answer, - "No response" it says. I am reading
19 this for background, okay?

20 A. Yes.

21 Q "Question: Was that just before they were to pick up
22 Keith? Answer: The week before. I don't remember
23 which day, but on Sunday he came for the address for
24 Keith was living in Canada and I give it to him on a
25 piece of paper".

26 A. Yes.

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- 1 Q Now, listen to this, the answer to this question,
2 "I say did he ever tell you to whom you were supposed
3 to pay the money? Answer: Yes, he say it was his
4 friend Leroy". Now - -
5 A I said that.
6 Q Pardon?
7 A I said it.
8 Q You said that?
9 A Yes.
10 Q Was that true or is it true what you say today that
11 he never talked about who was going to get the money?
12 Which is the truth is all I want to know.
13 A He did not discuss who was to get the money.
14 Q I am sorry, I didn't hear you.
15 A He did not tell me who was going to get the money.
16 Q He did not tell you?
17 A No.
18 Q So in front of the grand jury, you lied then?
19 A Yes.
20 Q Now, I just have a few more questions for you, Mrs.
21 Pryce. At any time that you were, from the time you
22 gave both of those statements, did you talk to Mr.
23 Devine about what they were going to do concerning
24 you?
25 A No.

1 Q. No. You were not indicted in this case, were you?

2 A. No.

3 Q. You have not been arrested?

4 A. No.

5 Q. And did they tell you that you were listed as a co-
6 conspirator in this indictment?

7 A. I don't remember.

8 Q. You don't remember that?

9 A. No.

10 Q. They didn't tell you that they were not going to indict
11 you at all, they are not going to do anything to you?

12 A. No.

13 Q. No. Made no promises whatsoever?

14 A. No.

15 Q. How about as far as Keith is concerned?

16 A. No.

17 Q. They made no promises to him at all?

18 A. I don't know.

19 Q. You don't know. Did they tell you that if you didn't
20 testify that it would go hard on Keith?

21 A. No, they didn't tell me that.

22 Q. They didn't tell you that?

23 A. But I know I have to tell the truth.

24 Q. They didn't tell you?

25 A. No.

1 Q They just told you to tell the truth?

2 A Yes.

3 Q Did they have any doubts about you telling the truth?

4 A I don't know.

5 Q You don't know. Now, you are presently living with
6 Mr. Grizzle in Rochester, is that correct?

7 A Yes.

8 Q And do you know, - and you have been living there with
9 him at what is the address, 210 Avenue A yet?

10 A Yes, and then I went to 17 and now I am at Clifford
11 Avenue.

12 Q Now you are on Clifford?

13 A Yes.

14 MR. CRIMI: May I just have a moment, your
15 Honor?

16 THE COURT: Surely.

17 MR. CRIMI: I have no further questions. Thank
18 you very much, Mrs. Pryce.

19 THE COURT: Mr. Cohen, anything further?

20 REDIRECT EXAMINATION BY MR. COHEN:

21 Q When Mr. Devine came to talk to you, did he tell you
22 who he was?

23 A Yes.

24 Q And is there a reason you told him you resided at 10
25

Dudley Street with Carol Pryce?

MR. CRIMI: I am going to object to that question, your Honor.

THE COURT: The reason, - yes, I will sustain the objection.

BY MR. COHEN:

Q. Excuse me, your Honor. You indicated to Mr. Devine that you resided at 10 Dudley?

A. Yes.

Q. And with Carol Pryce?

A. Yes.

Q. You also indicated that someone told you to say that.

MR. CRIMI: I object to that. I don't remember that indication at all.

THE COURT: I will sustain the objection.
Strike the inference and the question from your mind, ladies and gentlemen.

BY MR. COHEN:

Q. Did you have any conversations with anybody about answering questions from the Immigration Service?

A. Yes.

Q. And with whom did you have the conversation?

A. I have it with Junior and I have it with his brother Barry.

x x x

CHARGE OF THE COURT

x x x x x x x

CHARGE OF THE COURT

THE COURT:
(P. 497)

Ladies and gentlemen, at this time
it is my obligation to charge you on
the law. It is your task to try to
apply the law to the facts of this case

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as you find them as carefully as you can.

Now, as we discussed several times, perhaps if you were in Congress and were drafting Immigration laws, you would do it in a different way, but that question is not for us to decide. We, all of us, must accept the law as Congress has enacted it and we must try to apply it as well as we can.

Mr. Crimi, in his summation, made the point that our country, we stand for the proposition that we attempt to get equal justice under law to everyone. It does not matter whether a person is a resident, a neighbor, a citizen, or he is here a visitor, whether he is here legally or illegally, it just does not matter. He is entitled to the same careful consideration in his case as you would want to have accorded to you or anyone close to you if you would happen to be a defendant in a criminal case.

It is absolutely necessary that you consider each count and the elements of each count most carefully and you not

1 vote a verdict of guilty unless you are
2 convinced beyond a reasonable doubt as
3 to the defendant's guilt on any one
4 count. You must consider the counts
5 and vote on the counts separately.

6 A copy of the indictment will be
7 given to you for your guidance in the
8 jury room to aid you in your delibera-
9 tion, but again, I repeat that you must
10 be careful to keep in mind that an indict-
11 ment is a charge only. It is not evi-
12 dence of any criminal conduct whatever
13 against the defendant Carol Fryce.
14 It is to help him to know what the charge
15 is that is placed against him so that
16 he may prepare a defense and to make
17 sure that he is not charged again the
18 second time for the same crime.

19 When you deliberate in the jury
20 room, you should, of course, give your
21 own careful reasoned view of the facts
22 in this case and how the facts in your
23 opinion compare with the law and what
24 your judgment is on that. At the same
25 time, you should listen carefully to the

(P. 500)

1 carefully reasoned views of your fellow
2 jurors and think over what they say to
3 you and if you should be convinced that
4 by good reason that you are in the wrong
5 then you should change your mind. If,
6 on the other hand, if you are conscientiously
7 convinced that you are in the
8 right and that your fellow juror is in
9 the wrong, then you should adhere to
10 your principles. In other words, I am
11 saying that you should change your mind
12 for good reason, but not for any reason
13 of bias, prejudice, sympathy or any
14 other petit reason.

15 You, of course, should carefully
16 examine all the facts in the case and
17 the law before you reach a conclusion.

18 In this case, it has been a relatively
19 short one, but the facts are
20 tangled and before you come to any
21 conclusion, you should carefully review
22 all the evidence.

23 During the summations, during the
24 opening remarks, the lawyers and perhaps
25 I, in the course of my charge to you,

(P. 501)

1 will discuss the facts briefly but as
2 you know by now, that whatever the
3 Court or the attorneys' say about the
4 facts is argument only and if you not
5 agree with their conclusions, then you
6 should adopt the facts as you see them
7 and you may reject the facts as the
8 attorneys set them out to be, if you
9 think they are wrong.

10 During the course of the trial, the
11 Court has made certain rulings, permitted
12 certain evidence to come in and said
13 other evidence should not come in. You
14 should not speculate or guess. Sometimes
15 I explained to you why certain evidence
16 should not come in and maybe other times
17 I didn't, but if something was ruled
18 out, then you should not consider it.
19 If there are exhibits here which are
20 marked in evidence, they will be delivered
21 to you in the jury room as an aid to you
22 in reaching your conclusions. If they
23 are not marked in evidence, they will
24 not be delivered to you and you should
25 not consider or speculate what these

(P. 502)

exhibits are.

Certainly, my rulings did not mean to express one way or another my judgment here in this case for or against the defendant. That is for you to decide.

While you are to consider only the evidence in the case, you are not limited in your consideration to merely the bald statements of the witnesses. You are permitted to draw from facts which you find have been proven such reasonable inferences as seem justified in the light of your own experience in life.

You are not to be concerned in your deliberation about any sentence that may be imposed. The law requires that that be left to the Court. Your job is to find guilt or innocence and to make sure that if you do find a verdict of guilty, that it is by unanimous vote on each count and that you are satisfied that the Government has proven guilt beyond a reasonable doubt.

1 We have talked about presumption of
2 innocence. That presumption remains with
3 the defendant until after you have care-
4 fully considered all the facts and the
5 law and finally come to your conclusion;
6 if you do, that he is guilty beyond a
7 reasonable doubt and by unanimous vote.

8 You are not to be influenced by the
9 fact that in this case the Government
10 of the United States is a party. It
11 appeared clear to me that you listened
12 just as carefully to Mr. Crini's argu-
13 ments as you did Mr. Cohen's, and
14 certainly, in your deliberation you
15 should give just as careful weight to
16 his argument, - Mr. Crini's, as you do
17 to the Government's.

18 Generally speaking, there are two
19 types of evidence from which you can
20 find a defendant guilty or from which
21 you can find facts in the case. One is
22 called direct and the other is
23 circumstantial. Direct evidence,
24 generally, is the testimony of an eye
25 witness or what some witness heard

(P. 504)

1 under a particular, - at a particular
2 time. Circumstantial evidence is the
3 proof by a chain of circumstances point
4 ing to certain conclusions. In your
5 deliberation, you may use and consider
6 either direct or circumstantial evidence.

7 I think we all know what circum-
8 stantial evidence would be. An example
9 common, certainly, to this area, is that
10 we go to bed at night and it is dry out
11 and then when we awake in the morning
12 and look out, there is snow on the
13 ground and we come to the conclusion
14 circumstantially that it must have
15 snowed during the evening, but it must
16 be used with care because if we were
17 gone, let us say, for several days, and
18 there was snow on the ground when we
19 return, from that, from those facts alone
20 we wouldn't be able to tell whether it
21 snowed on the first, second or third
22 day when we were gone, or, perhaps, we
23 wouldn't be able to tell whether it
24 snowed once or twice or three times,
25 so in using circumstantial evidence,

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1 you must approach it with caution.

2 There are certain things which
3 I will now charge you. Some of this
4 will be repetitious, but I believe that
5 some of these rules bear repeating from
6 time to time. In order to make up your
7 mind about the facts in the case, you
8 should consider the testimony of the
9 witnesses, the direct examination, the
10 cross examination of each witness; com-
11 pare the testimony of one witness with
12 another. You may consider the exhibits
13 which are in evidence.

14 In looking at a witness, of course,
15 we are not required to believe what he
16 says. As a matter of fact, we, in some
17 circumstances, must discount, if we find
18 that his testimony does not bear up
19 under scrutiny. Then we must discount
20 it. You should carefully scrutinize the
21 testimony of each witness, the circum-
22 stances under which a witness testified
23 and every other matter in evidence which
24 tends to indicate whether he is worthy
25 of belief.

(P. 506)

1 The witness, in the course of his
2 testimony, may have acknowledged a
3 criminal record or admitted other unlaw-
4 ful, immoral or reprehensible conduct
5 or activities. For example, he may have
6 admitted lying in the past. You will
7 consider all of these facts and circum-
8 stances in determining his credibility
9 or believability. You may consider any
10 bias or prejudice demonstrated by the
11 witness or any hope of leniency or reward
12 which you may find in his testimony or
13 in the circumstances of his testimony.
14 You may consider the relation the witness
15 may bear to either side of the case;
16 the manner in which he might be affected
17 by the verdict and the extent to which
18 he is either supported or contradicted
19 by other evidence in the case.

20 The mere fact that the testimony
21 of a witness, however, is inconsistent
22 or that there are discrepancies in his
23 testimony does not mean that you must
24 reject his testimony in total. You
25 must determine whether the inconsistency

(P. 507)

1 is a result of falsification or whether
2 it is the result of innocent miscalcula-
3 tion.

4 If you find that the witness has
5 lied with respect to any material portion
6 of his or her testimony, you may disregard
7 that portion which you find to be un-
8 believable or you may, if you desire,
9 disregard his entire testimony.

10 As I said to you before, ladies
11 and gentlemen, in determining the credi-
12 bility of a witness, you may consider the
13 tests you would use in everyday life
14 in determining whether someone is telling
15 the truth in matters of importance. You
16 may consider in addition to everything
17 else that I have talked about, - you
18 may consider, if you desire, the witness'
19 demeanor and manner while on the stand.
20 You may consider his intelligence, his
21 opportunity to observe, under certain
22 circumstances; his opportunity to see
23 what happened; his opportunity to hear
24 what occurred. You may consider the time
25 that has passed since the happening of

1 an event and whether or not it is
2 the kind of an event which he is likely
3 to remember or not to remember.

4 In this case, as you will remember,
5 we had Mr. McDaniel who was, under our
6 jargon, an expert witness. He is a
7 person, who, because of education or
8 experience may be considered expert in
9 some art, science or profession. Usually
10 the ordinary witness cannot give an
11 opinion, but if someone has enough
12 training, then he may give an opinion.
13 Of course, you can consider the witness'
14 background, training and experience in
15 evaluating his testimony. Also in
16 evaluating his testimony, you ought to
17 look at the underlying facts upon which
18 he reached his conclusion and if you
19 find that the facts do not support his
20 conclusion then you may either reject
21 or discount his testimony to an appro-
22 priate extent.

23 You should not be swayed merely
24 by the number of witnesses. You should
25 only not be, - make up your mind on

(P. 509)

1 quantity, in other words, but on
2 quality of the witness' testimony.

3 The fact that some of the witnesses
4 were Customs or Immigration Agents does
5 not mean that they should have any
6 headstart with you. Their testimony
7 is to be just as carefully scrutinized
8 as other witnesses.

9 There are certain special rules in
10 regard to some witnesses. In this case,
11 we had the testimony of Monica Pryce and
12 Keith Grizzle and under rules, they were
13 persons that you may find were accomplices.
14 That is, a person who claims that he
15 united with another in the commission of
16 a crime. Testimony of such a person
17 alone, if believed by the jury beyond a
18 reasonable doubt, may be enough to sustain
19 a verdict of guilty. However, you should
20 keep in mind that the testimony of such
21 individuals must be received with special
22 caution and weighed with great care. It
23 is apparent that an individual such as
24 this is in a much more difficult position
25 than some outsider who just comes in and

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1 maybe just observes someone walking down
2 the street and has no connection with
3 the case at all, so the testimony of an
4 individual like that must be very, very
5 carefully considered before you would
6 accept it.

7 It is a basic rule in all criminal
8 cases that a defendant is presumed inno-
9 cent until proven guilty beyond a reason-
10 able doubt. That presumption of inno-
11 cence remains with the defendant through-
12 out the trial and continues to exist
13 until such time as each one of you is
14 convinced of his guilt beyond a reasonable
15 doubt by legal and competent evidence in
16 the case. The burden of proving a
17 defendant's guilt beyond a reasonable
18 doubt rests with the Government at all
19 times. It never shifts to the defendant.
20 The Government must prove each element
21 of the crime charged beyond a reasonable
22 doubt.

23 You will separately weigh and deter-
24 mine the evidence as to each count in
25 the indictment. In other words, your

(P. 511)

1 count can be on one, it can be guilty
2 and on two, not guilty; any determination
3 which you find is in keeping with the
4 facts and the law as I charge it to you.

5 A reasonable doubt is a fair doubt
6 based upon reason and common sense and
7 arising from the evidence. It is rarely
8 possible to prove anything to an abso-
9 lute certainty. A reasonable doubt is
10 not a vague, speculative or imaginative
11 doubt, but it is such a doubt as would
12 cause prudent men or women to hesitate
13 before acting in matters of importance
14 to themselves. A defendant is never to
15 be convicted on a mere suspicion, con-
16 jecture or surmise.

17 Since the burden is on the prose-
18 cution to prove the defendant guilty
19 beyond a reasonable doubt, a defendant
20 has the right to rely upon the failure
21 of the prosecution to establish such
22 proof.

23 As I have said to you before, you
24 should make up your mind in the case
25 based upon all of the evidence and again,

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(P. 512)

1 it is most important to again remind
2 you the law does not impose upon the
3 defendant the duty of producing any
4 evidence and in that connection, you
5 should keep in mind that the defendant
6 need not take the stand. You may not
7 draw any inference whatever from the
8 fact that the defendant did not take the
9 stand. Indeed, you may not consider or
10 comment upon that fact in any way during
11 your deliberation.

12 In this case, we have an indictment
13 which contains three counts. The first
14 count charges that on or about October
15 1, 1973, at the Lewiston Bridge,
16 Lewiston, New York, and as I have said
17 to you before, only as a guide to you, we
18 will give you a copy of the indictment,
19 the Defendant Carol Pryce unlawfully and
20 knowingly did attempt, by himself and
21 through another, to bring into the
22 United States by automobile, Keith
23 Ludlow Fitzhugh Grizzle, an alien not
24 lawfully entitled to enter or reside
25 within the United States, all in violation

(P. 513)

1 of Title 8, United States Code, Section
2 1324(a)(1). That section reads in per-
3 tinent part as follows, "Any person who
4 attempts, by himself or through another
5 to bring into or land in the United
6 States by any means of transportation
7 an alien not lawfully entitled to enter
8 or reside within the United States
9 shall be guilty of an offense against
10 the United States." The elements of
11 this particular offense are as follows,
12 and these elements, each one of these
13 elements the Government must prove beyond
14 a reasonable doubt before you can vote
15 a verdict of guilty on this count.

16 First of all, that Mr. Grizzle
17 who was actually named as an alien, was
18 in fact, an alien not lawfully entitled
19 to enter or reside within the United
20 States under the terms of the law re-
21 lating to immigration. In a few minutes,
22 I will explain to you and define for
23 you what is meant by the word "alien".

24 Secondly, that the defendant knew
25 that Keith Grizzle was an alien not

1 lawfully entitled to enter or reside
2 within the United States.

3 Thirdly, that the defendant himself
4 or through another, attempted to bring
5 Keith Grizzle into the United States
6 by means of an automobile.

7 Fourthly, that the defendant did
8 such acts knowingly.

9 Keep in mind that under the
10 statute, it is not necessary that the
11 defendant actually transported Keith
12 Grizzle to the border himself. The
13 element of the offense is satisfied if
14 the defendant caused the alien to be
15 transported to the international boundary.
16 Thus, if you find, beyond a reasonable
17 doubt, that the defendant made or assisted
18 in making the arrangements or plans
19 whereby Keith Grizzle was brought to the
20 international boundary and represented
21 himself as a citizen of the United
22 States the third element of the offense
23 is satisfied even though the defendant
24 himself, - that is, Mr. Pryce, - was
25 not actually present at the border.

1 There are some words that I will
2 define now. One of those is "alien".
3 The term "alien" means any person not
4 a citizen or a national of the United
5 States. The term "national" means a
6 person owing permanent allegiance to a
7 state. In this connection, you may
8 keep in mind the testimony of Keith
9 Grizzle who told you where he was born
10 and where he resided and, of course,
11 his testimony about his own nationality.
12 You may consider that in making up your
13 mind as to whether or not, - whether he
14 was or was not an alien. An alien is
15 not lawfully entitled to enter the
16 United States as an immigrant unless he
17 presents either a valid unexpired
18 immigrant visa, an alien registration
19 receipt card duly issued to him or a
20 valid unexpired re-entry permit duly
21 issued to him and a passport valid for
22 his entry into a foreign country at
23 least sixty days beyond the expiration
24 date of his immigrant visa as application
25 for admission into the United States.

(P. 516)

1 An alien is not lawfully entitled
2 to reside within the United States
3 unless he has been lawfully accorded
4 the privilege of residing permanently
5 in the United States as an immigrant
6 in accordance with the Immigration Laws.
7 In making up your mind about whether or
8 not Mr. Grizzle was lawfully entitled to
9 enter the United States, you should keep
10 in mind his testimony and the testimony
11 of the officers who were at the border
12 at the time and consider what representa
13 tions were made to them at that time and
14 of course, you may consider on the
15 question of knowledge, - you may consider
16 the conversations between the defendant
17 and Mr. Grizzle and the defendant and
18 others.

19 When I say you can consider, that
20 means that we must go back to that part
21 of the charge that had to do with your
22 analysis of the credibility of the
23 witnesses. Of course, if you disbelieve
24 anyone here, then you just would not
25 consider that as a fact in the case.

1 The second count in the indictment
2 charges that on or about October 1,
3 1973, that Mr. Pryce willfully and
4 knowingly did encourage and induce the
5 entry into the United States of Leroy
6 Cephas, an alien not lawfully entitled
7 to enter or reside within the United
8 States, all in violation of Title 8,
9 United States Code, Section 1324(a)(4).

10 This section reads in pertinent
11 part as follows: "Any person who
12 willfully, knowingly encourages or
13 induces either directly or indirectly
14 the entry into the United States of any
15 alien shall be guilty of an offense
16 against the United States". The elements
17 of this particular charge are as
18 follows, which the Government must prove
19 beyond a reasonable doubt each element
20 of the crime charged. Number one, that
21 Leroy Cephas was in fact an alien not
22 lawfully entitled to enter or reside
23 within the United States under the terms
24 of the law regarding immigration.

25 Two, that the defendant knew

(P. 518)

1 that Leroy Cephas was an alien not
2 lawfully entitled to enter or reside
3 within the United States.

4 Three, that the defendant either
5 encouraged and induced or encouraged
6 or induced the entry of Leroy Cephas
7 into the United States.

8 Fourthly, that the defendant did
9 said acts willfully and knowingly.

10 As far as encourage or induce is
11 concerned, it is not necessary that the
12 Government prove both encourage and
13 induce. If you find, however, that the
14 defendant both encouraged and induced
15 Leroy Cephas to enter the United States,
16 this element is satisfied. It may also
17 be satisfied if you find that he either
18 induced or encouraged him to come to the
19 United States. If you find that he
20 encouraged Leroy Cephas to enter the
21 United States, but did not induce him
22 to enter, that element is still satisfied.
23 In that connection, these words are to
24 be given their common meaning.

25 The word "encourage" means to

(P. 519)

1 instigate, to incite to action, to give
2 courage to try, to inspire, to raise
3 confidence, to make confident, to help,
4 to forward, to advise.

5 The word "induce" means to bring
6 about, effect, cause, influence, leave
7 by persuasion or reasoning, incite by
8 motives, prevail upon.

9 As far as the fact an alien, you
10 will, of course, keep in mind my prior
11 definition and in making up your mind
12 as to whether or not at this time Mr.
13 Cephas was an alien, you may keep in
14 mind his aunt's testimony about his place
15 of birth and his subsequent activities
16 which were revealed in the evidence and
17 you may also keep in mind the evidence
18 brought here by the representative of
19 the Immigration Service from Washington
20 who put in evidence the result of his
21 search of the records of the Immigration
22 Office which indicated that, as I recall,
23 that there was no record of a man by the
24 name of Leroy Cephas who was born on the
25 particular date in Kingston, Jamaica

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1 having any record of being recorded in
2 the Immigration Service under any of
3 the categories of visas, passports and
4 the like, but again, that is for you to
5 determine and you to make up your mind
6 by considering the evidence and consider-
7 ing all the facts in the case, so again,
8 briefly, on the first count, the
9 Government must prove beyond a reasonable
10 doubt that Mr. Grizzle was an alien
11 and at the time was not lawfully en-
12 titled to enter or reside within the
13 United States.

14 Two, that the defendant knew that
15 Mr. Grizzle was an alien not lawfully
16 entitled to enter or reside within the
17 United States.

18 Thirdly, that the defendant himself,
19 or through another, attempted to bring
20 Mr. Grizzle into the United States by
21 automobile, and fourthly, that he did
22 these acts knowingly.

23 I might say in that regard, it is
24 most important that in each of these
25 cases that you find that the defendant

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1 did these acts willfully, with a speci-
2 fic intent to disregard or disobey the
3 law; that he wasn't doing it under some
4 mistaken notion whatever; that he knew
5 these facts that these men were aliens
6 not permitted to enter the United States
7 and nevertheless, he went about this and
8 either induced or encouraged, or in the
9 first count, attempted to bring Mr.
10 Grizzle into the United States unlawfully.

11 The next count in this particular
12 case charges a conspiracy. I am not
13 going to read, - you will have in your
14 possession the copy of the indictment
15 so I am not going to read it all to you
16 at this time. I will point to certain
17 points of it and then explain to you
18 what conspiracy means. The first
19 paragraph in Count 3 charges that begin-
20 ing on or about September 14, 1973, and
21 continuing through October 1, 1973,
22 and these dates are important because
23 the Government must prove that the
24 unlawful events happened between these
25 particular times, - in the City of

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1 Rochester, in the Western District of
2 New York and elsewhere, the defendant
3 Carol Pryce, and then a number of indi-
4 viduals, Mr. Grizzle, Monica Pryce and
5 Leroy Cephas named as co-conspirators
6 but not as defendants, willfully, know-
7 ingly and unlawfully did conspire to
8 commit an offense against the United
9 States. That is, to violate Title 8,
10 United States Code, Section 1324(a)(1),
11 by attempting to bring into the United
12 States by automobile, Keith Grizzle,
13 an alien not lawfully entitled to enter
14 or reside within the United States, all
15 in violation of Title 18.

16 The first count you will recall
17 charged Mr. Pryce with actually attempt-
18 ing by himself or through another, to
19 bring Mr. Grizzle into the United States

20 The third count charges a conspir-
21 acy. That is, the planning of the
22 act. You are not required in a conspir-
23 acy count to find that the events actual
24 took place. It is the planning of the
25 act, the conspiracy with the happening

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1 of an overt act to follow which is the
2 crime. In this particular charge, there
3 are a number of overt acts charged.

4 For example, number one, on or
5 about September 14, 1973, Mr. Grizzle
6 entered Canada. The fifth one charged
7 is that on or about October 1, 1973, Mr.
8 Pryce and Leroy Cephas drove from
9 Rochester, New York to Toronto and so
10 forth. The overt acts will be there
11 for your examination.

12 In regard to the crime of conspir-
13 acy, the Government must prove, beyond
14 a reasonable doubt each of the following
15 three elements; one, the existence of
16 a conspiracy commencing on or about
17 September 14, 1973 and continuing through
18 October 1, 1973 for the purpose of bring-
19 ing into the United States by automobile
20 Keith Grizzle, an alien not lawfully en-
21 titled to enter or reside within the
22 United States.

23 Secondly, that the defendant Carol
24 Pryce joined the conspiracy with
25 knowledge of its unlawful purpose, and

1 that thirdly, any one of the conspirators,
2 including but not limited to the defend-
3 ant, knowingly committed at least one of
4 the overt acts charged in the indictment
5 in furtherance of the conspiracy.

6 Generally speaking, a conspiracy is a
7 combination or agreement among two or
8 more people to violate the law. It has
9 often been called a partnership for
10 criminal purpose. The gist of the crime
11 is a combination or agreement to violate
12 the law. In this particular case, it
13 is agreement to attempt to bring into
14 the United States, by automobile, Mr.
15 Grizzle, an alien not lawfully entitled
16 to be here.

17 Conspiracy may be found to exist
18 although the purpose of the conspiracy
19 is not accomplished. Proof that the
20 conspiracy was accomplished is the most
21 persuasive evidence, however, of the
22 existence of the conspiracy itself.

23 The first element is satisfied if
24 you find, beyond a reasonable doubt, that
25 any two or more of the people named here

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1 In any way intentionally combined or
2 agreed to a common plan knowingly and
3 intentionally to bring Mr. Grizzle, an
4 alien, into the United States by
5 automobile.

6 The second element which the
7 Government is required to prove beyond
8 a reasonable doubt is that the defendant
9 joined the conspiracy with knowledge of
10 its unlawful purpose.

11 In American courts we do not convict
12 people simply because they were careless
13 or they were mistaken. They must know
14 what they are doing. When I say "joined
15 a conspiracy", I do not mean the defendant
16 must apply for some kind of membership
17 or there is anything in writing. There
18 is no need for any kind of formal
19 compact between people before there is
20 a conspiracy, but as I have said before,
21 the defendant must know about the con-
22 spiracy and its unlawful purpose and
23 voluntarily and knowingly join in the
24 criminal venture with an intent to
25 combine with others violating the law.

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1 He must knowingly promote the scheme
2 or have some kind of stake in its out-
3 come. If you find the defendant joined
4 the conspiracy then he is bound by what
5 others said or did to promote the
6 bringing about of the successful com-
7 pletion of the venture even though he
8 himself is not present at the time
9 these other people committed certain
10 acts. The reason for this is because
11 each conspirator is the agent or partner
12 of every other conspirator.

13 The third element of the crime of
14 conspiracy is the commission by any
15 member of the conspiracy of at least
16 one overt act in furtherance of the
17 object of the conspiracy. An "overt act"
18 means any act by any member of the
19 conspiracy in an effort to accomplish
20 some purpose of it. The reason the law
21 of conspiracy requires an overt act is
22 because a person might agree to commit
23 a crime and then change his mind. There-
24 fore, before a defendant can be convicted
25 of the crime of conspiracy, one or more

1 of the conspirators must take at least
2 one step or perform a single act which
3 moves toward carrying out the unlawful
4 intent to commit the crime.

5 In this case, the Government has
6 alleged ten overt acts. Some of these
7 acts are innocent in and of themselves.
8 One of them I just read to you, where Mr.
9 Pryce and Mr. Cephas drove from Rochester
10 to Toronto. In and of itself, there is
11 nothing wrong with that automobile
12 journey.

13 Nevertheless, if the acts were
14 performed by any member of the conspiracy
15 even though not the defendant and those
16 acts were performed during the existence
17 of the conspiracy and in furtherance of
18 its purpose, then those acts are suffi-
19 cient to satisfy the third element. The
20 Government is not required to prove that
21 each of the overt acts alleged was
22 committed. It is enough if the Government
23 proves beyond a reasonable doubt that
24 at least one of the overt acts charged
25 was committed in furtherance of the

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1 conspiracy by one or more members of it,
2 so again, ladies and gentlemen, you
3 must find beyond a reasonable doubt that
4 the conspiracy as charged in the indict-
5 ment was formed; that the defendant
6 here knowingly and willfully became a
7 member of it; that one or the conspirators
8 knowingly committed at least one of the
9 overt acts charged in the indictment to
10 carry on the purpose of the conspiracy,
11 and as I have already told you, the
12 overt act must, in some way, further
13 the purpose of the conspiracy.

14 In this case, there are some things
15 which I have already said to you in
16 one way which may bear repeating in
17 another. In this case, the defendant
18 Carol Pryce may not be convicted upon
19 suspicion, surmise or speculation that
20 he may have done something wrong. His
21 guilt or innocence may be determined
22 only by the evidence in the case.
23 He is entitled to rely upon lack of
24 evidence. If you find that the
25 Government has not satisfied you as to

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1 a particular element of any one of the
2 counts, then you would have to acquit.

3 The defendant Carol Pryce has no
4 burden of proving his innocence. He
5 had no obligation to testify or to pro-
6 duce any evidence. The burden of
7 proving his guilt beyond a reasonable
8 doubt never shifts to him, but remains
9 upon the prosecution throughout the
10 trial.

11 The failure of the defendant to
12 take the stand creates no presumption
13 against him and you are not allowed to
14 draw any inferences unfavorable to him
15 from the fact that he did not testify.
16 The witnesses Monica Pryce and Keith
17 Grizzle are co-conspirators and are
18 accomplices with respect to the alleged
19 counts in this indictment. Their testi-
20 mony is to be given especially close and
21 searching scrutiny by you, more than the
22 testimony of the other witnesses and it
23 is only to be received with caution and
24 with great care.

25 You are entitled to consider any

(P. 530)

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immoral or criminal act of theirs or any other witness or any conduct on their part or any other witness which you may find may have influenced, consciously or subconsciously their evidence in the case.

I cannot see how this would be the case, but it is certainly clear that the defendant is only on trial here for the specific charges placed against him in this particular indictment. He is not on trial for any other, - if you find, for example, that he wasn't fair with an employer or something, that is not a charge here against him. Perhaps it may be, - you may consider it as to where he was or was not at a particular time, but he is only charged in the counts that are before you and that is the only thing you are to vote upon.

You are not to consider in your deliberation any evidence or testimony which I ordered excluded.

In your examining the facts in th

1 case, that there are facts which may
2 lead to certain inferences or point to
3 certain circumstances and if one inference
4 may point to guilt and the other may
5 point to innocence of the defendant, then
6 you must adopt the inference which, and
7 of course, this must be reasonable, -
8 that would point to innocence

9 Suspicion or suspicious circum-
10 stances do not amount to evidence and
11 the jury may not act on suspicion or
12 suspicious circumstances. In other
13 words, you cannot have gut reactions to
14 things. You must be able to give reason
15 for a particular course of conduct before
16 you can find a man guilty.

17 As I have said to you before, if
18 you find that any witness has deliberately
19 and intentionally sworn falsely to a
20 material fact, you have the right to
21 disregard his or her entire testimony
22 or reject that part which you find to be
23 false and accept the remainder. If you
24 find that any person was induced to
25 testify in this case by any promise of

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1 leniency or other consideration benefi-
2 cial to him, you must take these facts
3 into consideration in determining what
4 weight should be given to his or her
5 testimony.

6 As I have already explained to you
7 at the very beginning of the charge,
8 it is your obligation to carefully weigh
9 the testimony given and to deliberate
10 on the facts and law in this case most
11 carefully. Your verdict must be unani-
12 mous, all twelve jurors agreeing on
13 the result.

14 Again, listen carefully to the
15 views of your fellow jurors and also
16 express your own reasoned opinions about
17 the facts and law in this case.

18 It is helpful to have one of your
19 number named as a foreman, or forelady.
20 That person will preside over your de-
21 liberation and be your spokesman when
22 you come into court. If it is necessary
23 during your deliberation to communicate
24 with the Court, only do it by giving a
25 note to the marshal. Do not attempt to
communicate with any other person

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1 during the time of your deliberation.
2 If you are called into court during your
3 deliberation, do not reveal to me how you
4 stand numerically or do not reveal in
5 court the details of your deliberation.
6 In other words, before you make any
7 statement, - that would be at the time
8 you have arrived at a unanimous verdict.

9 I will ask you ladies and gentle-
10 men to step briefly into the corridor
11 so that I can hear the requests to charge
12 and exceptions to the charge, if any,
13 made by the attorneys and we will have
14 you back immediately. You may step out
15 with the marshal.

16
17 (Jury escorted from the courtroom.)

18
19 THE COURT:

Any requests or exceptions, Mr.
20 Cohen?

21 MR. CRIMI:

Mr. Cohen.

22 THE COURT:

Any requests or exceptions?

23 MR. COHEN:

24 Your Honor, I have no exceptions
25 to the charge and I would like to renew
my requests as set forth in Roman Numeral
Four, Page 7.

1 THE COURT:

Page 7. No. I decline to charge as requested on Page 7.

2
3 MR. COHEN:

Thank you, your Honor.

4 THE COURT:

Mr. Crimi.

5 MR. CRIMI:

Your Honor, I have no exceptions. I would request a charge as to criminal intent as such, that these are criminal charges and that they must find that the defendant had a criminal intent to violate the laws of the United States beyond a reasonable doubt. They must find beyond a reasonable doubt that he had intent.

13
14 THE COURT:

Didn't I say that, Mr. Crimi?

15 MR. CRIMI:

Your Honor, I believe you said it as far as knowingly and willingly, but you didn't mention the words "criminal intent".

18
19 THE COURT:

I said specific intent to disregard or disobey the law.

20
21 MR. CRIMI:

All right.

22 THE COURT:

If there is any confusion, I will clear it up. Anything further?

23
24 MR. CRIMI:

No, nothing further by me, your Honor.

25

1 THE COURT: Mr. Cohen?

2 MR. COHEN: No. Thank you, your Honor.

3 MR. CRIM: Thank you.

4

5

(Jury returns to the courtroom.)

6

7 THE COURT:

8

Ladies and gentlemen, I believe I said this to you during my charge, but to make sure of it, I will just briefly say it again. It is the obligation of the Government to prove beyond a reasonable doubt that as to each count that Mr. Pryce knew he was disobeying the law when he, - if you find that he committed the acts charged. That is, he had the specific intent to either disregard or to disobey the law.

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THE COURT:

Mrs. Boland and Mr. Vernacki, we

1 we can only have twelve jurors deliberat
2 We thank you for your service and your
3 cooperation and you will now be excused.
4 We will be in touch with you shortly,
5 I am sure, about further service. Thank
6 you again for being here.

7
8 (Two alternate jurors excused.)

9
10 THE COURT:

11 The other twelve jurors, you may
12 now go to the jury room with the marshal.
13 A copy of the indictment and the exhibits
14 which have been marked into evidence will
15 be delivered to you. As I have already
16 explained to you, we will not send to
17 you the exhibits not marked in evidence
18 and you are not to guess or speculate
19 about what may or may not be in these
20 particular documents. You may go out
21 now with the marshal.

22 (Jury retires to commence its
23 deliberation at 11:40 a.m.)

24
25 THE COURT:

Mr. Cohen and Mr. Crimi, meet with

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1 Mr. White, please, so we can make sure
2 only the exhibits which are in evidence
3 go in evidence. If you have any ques-
4 tion, I will step out and resolve the
5 difference.

6 We will be in recess.

7
8 (Recess taken at 11:41 a.m., pend-
9 ing deliberation of the jury.)
10

11 * * * * *

12
13 PROCEEDINGS: November 7, 1974, 4:00 p.m.

14 APPEARANCES: As before noted.

15 (Defendant present.)

16 (Jury present.)

17
18 THE CLERK: Members of the jury, kindly answer
19 to your names.

20
21 (Jury roll call taken. All jurors
22 present.)

23
24 THE CLERK: Will the foreman kindly rise.

25 Members of the jury, have you agreed

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1 upon your verdict?

2 THE FOREMAN: Yes, we have.

3 THE CLERK: What is your verdict on Count 1 of

4 the indictment?

5 THE FOREMAN: Not guilty. No, -- yes, guilty.

6 THE CLERK: Count 2?

7 THE FOREMAN: Not guilty.

8 THE CLERK: Count 3?

9 THE FOREMAN: That is the conspiracy count,

10 guilty.

11 THE CLERK: Members of the jury, kindly listen

12 as the Court records your verdict. You

13 find the defendant Carol Pryce guilty on

14 Count 1 of the indictment; not guilty

15 on Count 2 of the indictment, and guilty

16 on Count 3 of the indictment. Is your

17 verdict as the Court has recorded it?

18 THE FOREMAN: Yes.

19 THE CLERK: So say you all?

20 THE JURY: Yes.

21 THE COURT: Mr. White, I think we should poll

22 the jury.

23 THE CLERK: Members of the jury, if this is

24 your verdict, kindly answer "yes".

25 THE COURT: Mr. White, please take count 1

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1 individually. On Count 1 if that is
2 your verdict, say "yes".
3

4 (Jury polled by the clerk on
5 Count 1. All replied in the affirmative.)
6

7 THE COURT:

Now, Count 2.

8 THE CLERK:

9 If your verdict on Count 2 is as
10 the Court has recorded it, kindly answer
11 "yes".

12 THE COURT:

13 The verdict on Count 2, as I under-
14 stand, not guilty. If that is your
15 verdict, say "yes".
16

17 (Jury polled as to the verdict on
18 Count 2. All replied in the affirmative.)
19

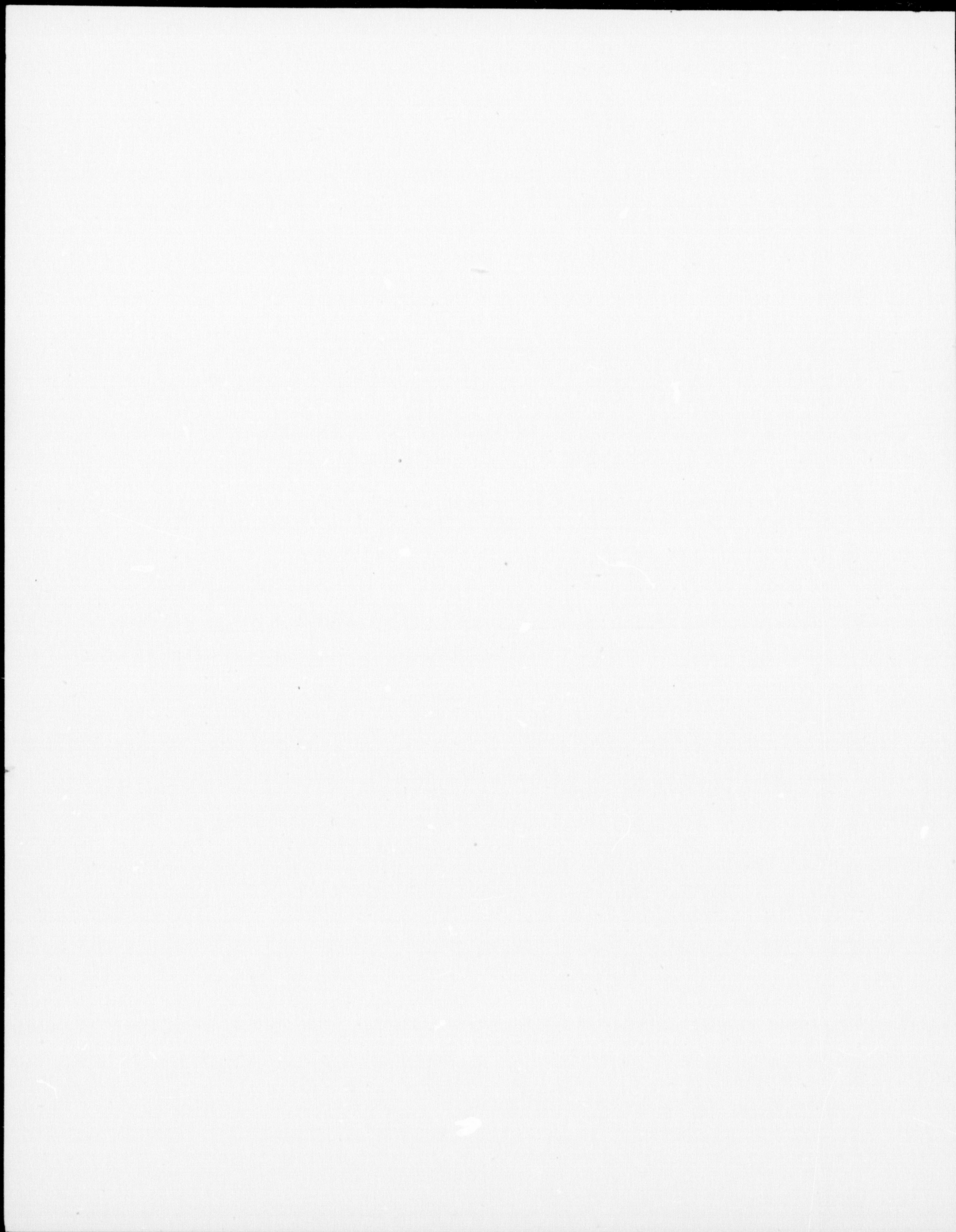
20 THE CLERK:

21 If your verdict on Count 3 is as
22 the Court has recorded it, guilty,
23 kindly answer "yes".
24

25 (Jury polled as to Count 3. All
replied in the affirmative.)

THE CLERK:

Members of the jury, is your verdict



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as the Court has recorded it; so say
you all?

THE JURY:

Yes.

THE COURT:

Ladies and gentlemen, you are
excused. You are discharged from
consideration of this case. You have
returned your verdict and we will be in
touch with you soon about your next time
of service. Thank you very much. You
may go out with the marshal.

(Jury escorted from the courtroom.)

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